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Vol. I
TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1939

No. 638

APEX HOSIERY COMPANY, PETITIONER,

vs.

**WILLIAM LEADER AND AMERICAN FEDERATION
OF FULL FASHIONED HOSIERY WORKERS,
PHILADELPHIA, BRANCH No. 1, LOCAL No. 706**

**ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE THIRD CIRCUIT**

PETITION FOR CERTIORARI FILED JANUARY 12, 1940.

CERTIORARI GRANTED FEBRUARY 26, 1940.

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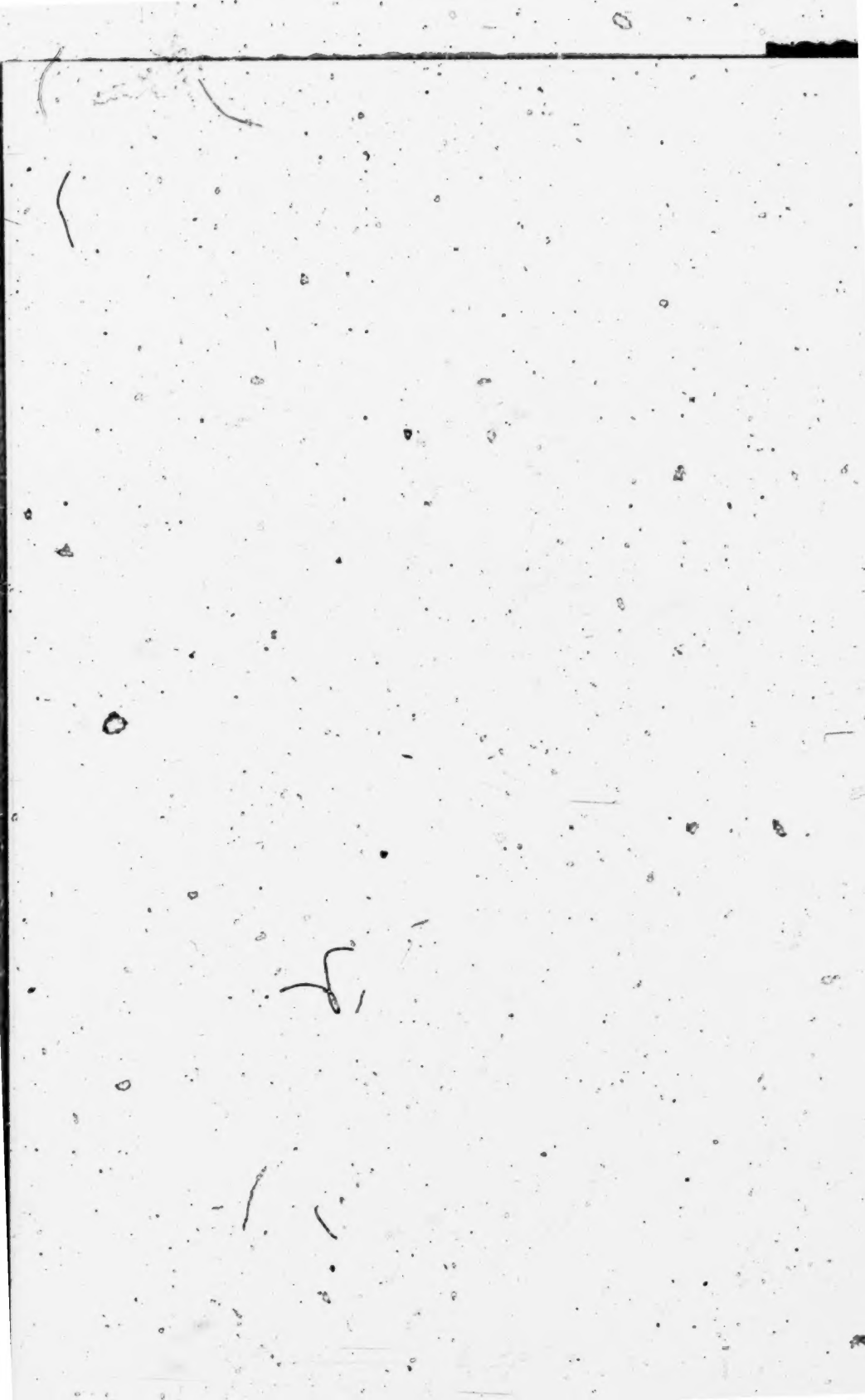
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In The
DISTRICT COURT OF THE UNITED STATES
For the Eastern District of Pennsylvania

No. 19950.

March Term, 1937.

APEX HOSIERY COMPANY

vs.

WILLIAM LEADER, President of American Federation of Full Fashioned Hosiery Workers (Sometimes known as American Federation of Hosiery Workers), Phila. Branch No. 1, Local No. 706, an unincorporated association, and individually, Joseph Burge, Vice President of said association, and individually, Harry Omeig, Treasurer of said association, and individually, Huey Brown, Secretary of said association, and individually, The American Federation of Full Fashioned Hosiery Workers, (sometimes known as American Federation of Hosiery Workers), Philadelphia Branch No. 1, Local No. 706, an unincorporated association, on behalf of itself and all the members thereof.

Sylvan H. Hirsch, Esq.,
Arno P. Mowitz, Esq.,
Harry G. Sundheim, Esq.,
For Plaintiff.

M. Herbert Syme, Esq.,
For Defendants.

DOCKET ENTRIES

May 28, 1937, Praeipe to issue Summons, filed.

May 28, 1937, Summons exit—returnable first Monday in June, 1937.

May 28, 1937, Statement of Claim, filed.

June 15, 1937, Affidavit of Defense raising questions of law filed.

Aug. 2, 1937, Summons returned: "on June 4 and 5, served and filed."

Aug. 2, 1937, Stipulation of counsel withdrawing affidavit of defense raising questions of law and granting leave to file amended statement of claim, filed.

Mar. 3, 1938, Amended Statement of Claim and notice to file affidavit of defense, filed.

Apr. 26, 1938, Motion to dismiss in lieu of answer, filed.

May 5, 1938, Praeipe to place case on Argument List, filed.

June 13, 1938, Praeipe to place case on Argument List, filed.

July 6, 1938, Argued sur motion to dismiss action.

Sept. 14, 1938, Opinion, Kirkpatrick, J., granting leave to amend statement of claim and denying motion to dismiss action, filed.

Sept. 19, 1938, Second amended Statement of Claim and notice to file answer, filed.

Oct. 27, 1938, Affidavit of Defense of Wm. Leader, filed.

Oct. 27, 1938, Affidavit of Defense of Amer. Federation of Full Fashioned Hosiery Workers, filed.

Oct. 27, 1938, Affidavit of Defense of Harry Omeig, filed.

Oct. 27, 1938, Affidavit of Defense of Jos. Burge, filed.

Oct. 27, 1938, Affidavit of Defense of Huey Brown, filed.

Nov. 23, 1938, Proof of notice by plaintiff of taking depositions, filed.

Nov. 29, 1938, Proof of notice by plaintiff of taking depositions, filed.

Dec. 1, 1938, Petition of defendants to compel plaintiff to show cause why depositions should not be taken, filed.

Dec. 1, 1938, Hearing sur petition to compel plaintiff to show cause, etc.

Eo die, Petition denied.

Dec. 7, 1938, Affidavit as to failure of M. Pirozels, a witness to appear, filed.

Dec. 7, 1938, Motion for attachment for M. Pirozels, a witness.

Dec. 7, 1938, Attachment exit.

Dec. 8, 1938, The Marshal produces M. Pirozels, witness, in open Court. Ordered that witness be taken before Notary Public for deposition.

Dec. 8, 1938, Attachment sur witness returned: "C. C." and filed.

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- Dec. 15, 1938, Motion by plaintiff for discovery and production of documents, etc., filed.
- Dec. 15, 1938, Notice of motion, filed.
- Dec. 19, 1938, Hearing sur motion for discovery. C. A. V.
- Dec. 23, 1938, Answer of defendants to motion for discovery, filed.
- Dec. 27, 1938, Order of Court appointing Special Master to supervise inspection of records, etc., filed. 12/27/38 Noted and notice mailed.
- Dec. 29, 1938, Defendants' Notice of Appeal filed. 12/30/38 Copy to Sylvan H. Hirsch.
- Dec. 29, 1938, Copy of Clerk's notice of appeal to U. S. Circuit Court of Appeals, filed.
- Jan. 11, 1939, Depositions of H. Bach et al., filed.
- Jan. 11, 1939, Depositions of Huey Brown et al., filed.
- Jan. 11, 1939, Depositions of Wm. Anderson et al., filed.
- Jan. 11, 1939, Depositions of Paul Lang et al., filed.
- Jan. 21, 1939, Motion by defendants for discovery and production of documents, filed.
- Feb. 9, 1939, Certified copy of order of U. S. Circuit Court of Appeals dismissing appeal from order of Dec. 27, 1938, filed.
- Mar. 13, 1939, Jury called and sworn.
- Mar. 13, 1939, Trial—witnesses sworn.
- Mar. 14, 1939, Trial resumed.

Mar. 15, 1939, Trial resumed.

Mar. 16, 1939, Trial resumed.

Mar. 17, 1939, Trial resumed.

Mar. 20, 1939, Trial resumed.

Mar. 21, 1939, In open Court: The Court announces the appointment of David Bachman, Esquire as Special Master to take accounting of damages. The jurors are excused—subject to call.

Mar. 21, 1939, Order of Court awarding sum of \$500 to David Bachman for services in connection with Court's order of Dec. 27, 1938, filed.

Mar. 28, 1939, Report of Master, filed.

Mar. 29, 1939, Trial resumed.

Mar. 30, 1939, Trial resumed.

Mar. 30, 1939, Order of Court awarding sum of \$500 to David Bachman for services in connection with Court's order of Mar. 20, 1939, filed.

Mar. 31, 1939, Trial resumed.

Apr. 3, 1939, Trial resumed.

Apr. 3, 1939, Verdict: In favor of plaintiff in sum of \$237,310.85, and against American Federation of Full Fashioned Hosiery Workers, Phila. Branch No. 1, Local No. 706, and William Leader; and in favor of defendants Joseph Burge, Harry Ohmeig and Huey Brown and against the plaintiff.

Apr. 3, 1939, The jury returns its answers to certain interrogatories.

Apr. 3, 1939, Interrogatories and jury's answers thereto, filed.

Apr. 3, 1939, Plaintiff moves the Court to treble the verdict.

Eo die, Motion granted and ordered that verdict be recorded in sum of \$711,932.55.

Apr. 4, 1939, Direction by Court to the Clerk to enter judgment and fixing counsel fees in sum of \$25,000, filed.

Apr. 4, 1939, Judgment filed. 4/4/39 Noted and notice mailed.

Apr. 4, 1939, Defendant's motion at trial for directed verdict, filed for record.

Apr. 4, 1939, Defendant's points for charge, filed for record.

Apr. 13, 1939, Order of Court extending time for filing motion for new trial, filed. 4/14/39 Noted and notice mailed.

Apr. 14, 1939, Order of Court directing payment of Master's Fees, filed. 4/14/39 Noted and notice mailed.

Apr. 14, 1939, Stipulation of counsel extending time for filing motion and reasons for new trial, filed.

Apr. 14, 1939, Motion to set aside verdict and judgment, filed.

Apr. 18, 1939, Testimony (10 volumes) filed.

Apr. 18, 1939, Depositions offered in evidence (4 volumes), filed.

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Apr. 18, 1939, Hearing sur motion for new trial continued to April 21, 1939.

Apr. 18, 1939, Motion and reasons for new trial, filed.

Apr. 18, 1939, Hearing sur motion for new trial continued to April 21, 1939.

Apr. 21, 1939, Argued sur motion for new trial and sur motion to set aside verdict.

Apr. 24, 1939, Opinion, Kirkpatrick J., denying motion to set aside verdict and motion for new trial, filed.

Apr. 24, 1939, Order of Court dismissing motions to set aside verdict and for a new trial, filed.

4/25/39 Noted and notice mailed.

Apr. 25, 1939, Plaintiff's bill of costs filed.

Apr. 25, 1939, Notice of appeal by Wm. Leader and American Federation of Full Fashioned Hosiery Workers, etc., filed. 4/25/39 Copy to Sylvan Hirsch, Esq., Atty. for Plff.

Apr. 25, 1939, Defendants' designation of matter to be included in record on appeal and approval by plaintiff, filed.

PLAINTIFF'S SECOND AMENDED COMPLAINT

(Filed Sept. 19, 1938)

Apex Hosiery Company, plaintiff above named, brings this suit to recover from the defendants herein named, the sum of \$3,515,872.41 in accordance with the provisions of the Act of Congress of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731 (15 U. S. C. A. Sec. 15) known as the Clayton Act, upon a cause of action whereof the following is an amended statement:

1. Apex Hosiery Company, plaintiff above named, is a corporation organized under the laws of the State of Pennsylvania, engaged in the manufacturing of hosiery which it sells throughout the United States. Its principal place of business is in Philadelphia, Pennsylvania, where its manufacturing plant is located.

2. The individual defendants herein are William Leader, President, Joseph Burge, Vice-President, Harry Omeig, Treasurer, and Huey Brown, Secretary, all of whom are officers of the Philadelphia Local Branch No. 1 of the American Federation of Full Fashioned Hosiery Workers, sometimes known as the American Federation of Hosiery Workers.

3. The American Federation of Full Fashioned Hosiery Workers (sometimes known as American Federation of Hosiery Workers) defendant above named, is an unincorporated association whose mem-

*Plaintiff's Second Amended
Complaint*

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bers are employees in the hosiery industry; said association being commonly known and referred to as a hosiery union. This action is brought against said association and all of its officers and members, particularly the officers and members of its Philadelphia Branch No. 1, Local No. 706.

4. The jurisdiction of this Court is based upon the Act of Congress of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731 (15 U. S. C. A. Sec. 15) known as the Clayton Act, which entitles any person who is injured in his business or property by reason of anything forbidden by the so-called "anti-trust laws" of the United States, (the Act of Congress of July 2, 1890, c. 647, Sec. 1 et seq., 26 Stat. 209, 15 U. S. C. A. Sec. 1 et seq., known as the Sherman Act, and the Act of Congress of October 15, 1914, c. 323, Sec. 1 et seq., 38 Stat. 730, 15 U. S. C. A. Sec. 12 et seq., known as the Clayton Act), to recover three-fold the damages sustained by him, together with the costs of suit, including a reasonable attorney's fee.

5. The total capital employed by plaintiff in the conduct of its hosiery business is upwards of \$3,500,000., and said company employs approximately 2,500 men and women in its manufacturing operations. The total annual sales of plaintiff are approximately \$5,000,000., and upwards of 85% of said business represents sales and shipments to states other than Pennsylvania.

6. The raw materials used by plaintiff in its manufacturing of hosiery, including more particularly the silk required for manufacturing said ho-

siery, are purchased by and shipped to plaintiff's manufacturing plant in Philadelphia from numerous points outside of the State of Pennsylvania, including other states and foreign countries, and said raw materials after their interstate shipment to plaintiff, are then converted into hosiery, which in turn is sold, shipped and distributed by plaintiff from its Philadelphia plant throughout the United States. The wrongful acts committed by defendants, as hereinafter related, restrain or obstruct the free flow of plaintiff's interstate commerce and business.

7. At all times hereinafter mentioned, plaintiff operated its business on what is popularly known as the "open shop principle" under which the company had no contractual relations with any outside union, nor were its employees required to belong to any such union, but the company nevertheless dealt directly and collectively bargained with its employees on all matters concerning their rates of pay, hours of work and general working conditions. Plaintiff is informed, believes and therefore avers that but a very small minority of its employees were members of the defendant union on May 6, 1937, and but a very small minority of its employees were members of the defendant union on any of the dates hereinafter mentioned, of their own free will and accord.

8. For some time prior to May 6, 1937, defendant union unsuccessfully endeavored to enroll all of plaintiff's employees in its membership, which employees, however, preferred, of their own free will and accord, not to join any organized union and more particularly, not to join defendant's union.

*Plaintiff's Second Amended
Complaint*

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9. Plaintiff is informed, believes, and therefore avers that prior to May 6, 1937, and on all dates hereinafter mentioned, by reason of defendant's failure to unionize plaintiff's plant on what is known to be a "closed shop" basis, defendants thereupon decided upon more drastic and extreme measures to force the unionization of plaintiff's plant, and to force plaintiff to sign what is popularly known as a "closed shop union agreement" under which only the members of defendant's union can be employed to work in plaintiff's plant; plaintiff would be compelled to deduct union dues from the pay of all its workers, and in other respects plaintiff would be under the complete domination of the defendant union, and to this end, defendants did unlawfully seek to force, coerce, intimidate and compel the employees of plaintiff to become members of defendant's union, and to compel plaintiff to sign a closed shop union agreement, and defendants have on numerous occasions threatened plaintiff's employees with severe bodily harm, put them in fear of their lives and threatened harm to the members of their families, unless said employees would become members of defendant's union, against their own free will and accord, and in many instances, some of said threats have actually been carried out.

10. In addition to said threatened attacks and the use of force and intimidation against plaintiff's employees, defendants unlawfully combined and conspired together to force entry into plaintiff's plant; to damage its machinery and equipment; and thereafter to retain exclusive and unlawful possession of plaintiff's plant, with the purpose and intent of re-

*Plaintiff's Second Amended
Complaint*

straining, obstructing and interfering with plaintiff's manufacturing operations and restraining or controlling the supply of plaintiff's products entering or moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in said products; and for the further purpose of forcing plaintiff to sign a closed shop union agreement against its own free will and accord. To this end, defendants committed the unlawful acts related in this and the succeeding paragraphs of this complaint, to wit:

On May 6, 1937, while the plaintiff's plant, situate at the Southeast Corner of Fifth and Luzerne Streets, Philadelphia, was closed, its manufacturing operations having ceased for that day, the members of defendant's union and/or those instigated by them, through the use of force and violence and without warning to plaintiff's officers and in pursuance of said unlawful conspiracy, broke down the locked doors of plaintiff's factory, stoned its windows on four floors and thereupon forced their way into the factory premises, destroying office partitions, desks, typewriters, computing machines, overturning files, scattering records, throwing finished hosiery about the floor and out the windows, and did otherwise wreck and demolish the machinery and equipment on said premises. In addition to the above, they set upon William Meyer, President of Apex Hosiery Company, and F. Elwood Struve, its general manager, and by physical force and violence severely injured both of the aforesaid persons, William Meyer receiving a swollen head, cuts, bruises and contusions of the body, and F. Elwood Struve receiving two broken ribs and other bodily harm. In

addition, defendant's members and/or those instigated by them set upon the employees of Apex Hosiery Company who were still on the factory premises and who were not members of the defendant union, severely injuring many of them, more particularly two of said persons, necessitating their removal to a hospital in a serious condition.

Immediately upon the completion of said forcible entry and destruction of plaintiff's premises, defendants William Leader and other members of defendant union, in large numbers, approached William Meyer, plaintiff's President, in the demolished office of the Company and demanded that he, then and there, although in a dazed and injured condition, sign a closed union shop agreement. This he refused to do.

11. Plaintiff is informed, believes and therefore avers that all of the aforesaid wrongful acts against the employees of plaintiff and against its plant and equipment and the resulting destruction and personal injuries hereinabove related, were carried out under the personal direction, supervision and observation of the defendant William Leader, as President of the union, who was present at the time said attack took place.

12. After the occurrences hereinabove complained of on May 6, 1937, defendants caused and permitted approximately 150 or more of their members to take and continuously retain exclusive possession of plaintiff's premises through the medium of what is popularly known as a "sit-down", up to and including June 23, 1937, during which period de-

*Plaintiff's Second Amended
Complaint*

defendants refused to permit plaintiff's employees who desired to work and who were not members of the union, to follow the usual and customary occupations and duties, and furthermore, refused to permit plaintiff's office employees to come upon the premises and keep and maintain the books and records of plaintiff. To this end, defendants barred the doors to all officers and employees of the plaintiff, thereby refusing them access to their own plant and working premises, the defendants placing new locks and bolts on all entrances to plaintiff's plant in order to carry out this purpose.

13. The aforesaid unlawful possession of plaintiff's premises by the defendants continued from May 6, 1937 to June 23, 1937, the date on which the defendants and/or those whom they caused or directed to "sit-down" on plaintiff's premises vacated said premises, pursuant to an Order of the United States District Court for the Eastern District of Pennsylvania, as of March Term, 1937, No. 9741, entered June 22, 1937, commanding them so to do, and pursuant to the mandate of the United States Circuit Court of Appeals for the Third Circuit, entered June 21, 1937, as of March Term, 1937, No. 6479, in which the aforesaid persons in possession of plaintiff's premises were declared by said Court to be "lawless individuals" who had "forced themselves upon and into the plaintiff's property" and thereafter "retained illegal possession of it".

14. As a result of the unlawful entry upon plaintiff's premises by the defendants and/or other persons acting for and under the direction of defendants, and the use of force and violence by them as

*Plaintiff's Second Amended
Complaint*

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aforesaid, defendants damaged plaintiff's factory premises and the merchandise, machinery and equipment therein located as follows:

(a) The factory doors, factory windows, office partitions, office furniture and equipment, venetian blinds, desks, typewriters, comptometers, label pasting machinery, sealing machines, stenciling machines, multigraph equipment, and other office equipment and machinery (other than knitting machines), plumbing equipment, electrical equipment, time recording equipment, vapor lights, hardware, paint, fixtures and miscellaneous mill equipment were damaged or destroyed, resulting in a loss to plaintiff of \$17,428.53, which loss is itemized as follows:

Glazing of Windows	\$ 830.08
Plumbing Repairs and Supplies	359.10
Hardware Repairs and Supplies	659.01
Electrical Repairs and Supplies	776.73
Painting	98.06
New Front Door	274.00
Repairs to Time Recording System	895.00
Repairs and Replacement of Fixtures	3,500.00
Replacement of Broken Tubes for Vapor Lights	1,460.70
Repair and Replacement of Stenciling Ma- chine	269.25
Repairs to Multigraph Equipment	106.71
Repairs to Label Pasting Machines	180.00
Repair and Replacement of Sealing Ma- chine	119.35
Miscellaneous Repairs and Replacement of Mill Furniture and Equipment	668.19

*Plaintiff's Second Amended
Complaint*

Repairs to Desks, Typewriters, Adding Machines, etc.	\$ 1,561.76
Labor costs for Repairing Other Damaged Office Equipment	1,000.00
Repairs to and Replacement of Venetian Blinds in Office and Plant	1,066.00
Repairs and Miscellaneous Replacement to Office Equipment.	40.94
Miscellaneous Repairs in Office and Plant	1,130.92
Additional Miscellaneous Damage	1,508.08
Machinery (other than Knitting Ma- chines)	527.15
Miscellaneous Labor Repairing Damage	360.00
Repairs to Fence	37.50
	<hr/>
	\$17,428.53

All of the above figures represent the fair, reasonable and market value of repairing or replacing the damaged or destroyed premises and equipment.

(b) Finished merchandise, merchandise in the process of manufacture and mill supplies were damaged, destroyed or stolen, resulting in a loss to plaintiff of \$7,277.30, which loss is itemized as follows:

Inventory Shortage	\$ 2,593.50
Damaged Hosiery	1,229.59
Labor Cost for Sorting Wareroom Mer- chandise	623.99
Silk and Yarn Waste on Damaged Ma- chines	731.93
Stolen Mill Supplies, including 6M-45 C. G. Rd. Split Dividers, 19 mender- hooks, and miscellaneous supplies	2,098.29
	<hr/>
Total	\$ 7,277.30

*Plaintiff's Second Amended
Complaint*

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All of the above figures represent the fair, reasonable and market value of repairing or replacing the damaged, destroyed and missing supplies and merchandise.

15. Between May 6, 1937, and June 23, 1937, during the aforesaid unlawful possession of plaintiff's premises by the defendants and such other persons as were acting for and under the direction of defendants, said persons did unlawfully damage and destroy plaintiff's factory premises and the equipment and merchandise therein located in the following respects:

(a) On or about June 10, 1937, 28 legging machines and 2 footing machines were wilfully damaged and destroyed, the repairing of which machines required re-needling, new sinker heads, new knocking-over bars, new narrowing fingers, new lock-stitch bars, cotton and felt, the cost of which, including labor, was \$10,160.36, which cost represents the fair, reasonable and market value of repairing or replacing said damaged equipment.

(b) On or about June 21, 1937 and/or June 22, 1937, 102 additional legging, footing and looping machines were damaged or destroyed, the repairing of which machines required new parts including needles, points, lace fingers, narrowing fingers, sinker heads and felts, the cost of which, including labor, was \$56,450.22, which cost represents the fair, reasonable and market value of repairing or replacing said damaged equipment.

(c) In addition to the aforesaid damaged machinery, the remaining 227 legging and footing ma-

*Plaintiff's Second Amended
Complaint*

chines on plaintiff's factory premises were either damaged, destroyed or permitted to fall into disrepair because of the aforesaid force and violence by the defendants and/or other persons acting for and under the direction of defendants and during the illegal possession of plaintiff's premises by the defendants, especially since this machinery required special and constant care and attention; the windows which were broken and left open by the defendants greatly increased this need of attention and care; defendants failed to repair the windows and prevented the plaintiff from doing so; and defendants wholly neglected the care of the machines and forcibly prevented plaintiffs or its agents from entering the premises to enable it to do so. The repairing of said machinery required re-threading, new felts, silk back-winding and preparation for productive work, the cost of which, including labor, was \$12,833.11, which cost represents the fair, reasonable and market value of repairing or replacing said damaged equipment.

(d) The cost of transporting the tools and materials required in connection therewith was \$589.20, which is the fair, reasonable and market value for such work.

(e) The defendants and/or other persons acting for and under their direction, during their illegal possession of plaintiff's premises, damaged the roof of plaintiff's premises, its silk, finished hosiery, and hosiery in the process of manufacture, time recording system and miscellaneous machinery and equipment (other than knitting machines) resulting in a loss to plaintiff of \$17,218.75, which loss is itemized as follows:

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Repairs to Roof	\$ 47.60
Damaged Silk	202.18
Reprocessing of Soiled Hosiery	3,792.67
Repairing of Time Recording System	1,218.50
Miscellaneous Repairs and Replacement of Mill Equipment	668.19
Miscellaneous Repairs to Office Equip- ment	1,130.91
Repairs to Machinery (other than Knit- ting Machines)	1,013.31
Cost of Labor for Repairing the above Damage to Plant and Equipment	9,145.39
	<hr/> \$17,218.75

All of the above figures represent the fair, reasonable and market value of repairing or replacing the damaged or destroyed premises, supplies and equipment.

16. By reason of the aforesaid damage and destruction of plaintiff's factory premises, due to the aforesaid illegal acts of defendants and the damage and destruction of the machinery, merchandise and equipment therein located, which is more particularly set forth hereinbefore, and by reason of plaintiff's inability to operate its manufacturing machinery and equipment and ship its merchandise, due to the aforesaid illegal possession and destructive acts of defendants, plaintiff sustained loss and damage as follows:

(a) The plaintiff was unable to complete the manufacture of, ship and deliver approximately 100,000 dozen pairs of various types and styles of stockings which were in the course of manufacture

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or in a finished state on May 6, 1937, and for which it had already received orders, the filling of which orders would have resulted in a considerable profit to plaintiff.

(b) The aforesaid 100,000 dozen pairs of stockings which plaintiff had on hand in the course of manufacture or in a finished state on May 6, 1937, were of a seasonable style and character, the delivery date for which passed during the period when plaintiff was unable to take possession of and operate its factory as hereinabove related, and as a result the market value thereof dropped considerably, resulting in great loss to plaintiff.

(c) Plaintiff was unable to manufacture and ship additional merchandise and was forced to accept cancellations of orders already received and to reject new orders thereafter received, all of which orders had been or could have been accepted at prices which would have resulted in considerable profit to the plaintiff, all of which profit and business was lost to the plaintiff.

(d) During the period May 6, 1937 to June 23, 1937, during which defendants retained illegal possession of plaintiff's plant as hereinbefore related and during a period of six months thereafter, which was the time required to repair the damaged machinery and equipment, plaintiff, although unable to carry out its usual manufacturing and selling operations was nevertheless compelled to continue to meet its fixed charges, normal carrying charges, interest on investments, fixed expenses of operations, and the payment of salaries to officers and certain employees which could not be avoided, together with other and various expenses.

(e) By reason of the matters more particularly set forth in Paragraphs (a) to (d) hereinabove, plaintiff is informed, believes and therefore avers that it sustained a loss or damage equal to or in excess of the sum of \$550,000.00.

17. By reason of the aforesaid unlawful possession of and damage to plaintiff's premises by defendants, and plaintiff's resultant inability to operate its machinery and equipment and fill its orders for hosiery received from customers throughout the United States, plaintiff is informed, believes and therefore avers that it lost the good will of those customers whose orders could not be accepted and filled by plaintiff, all of which has and will result in loss and damage to plaintiff in an amount equal to or in excess of the sum of \$500,000.00.

18. Plaintiff is informed, believes and therefore avers that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property and injury to persons, were authorized or participated in or ratified by the officers and individual defendants named in this amended Complaint, and by the members of defendant's union.

19. Plaintiff is informed, believes and therefore avers that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property, injury of persons and other acts hereinbefore related, in which the defendants unlawfully combined and conspired together, were entered into, perpetrated and carried out by defendants with the purpose and intent of

*Plaintiff's Second Amended
Complaint*

unlawfully restraining or controlling plaintiff's supply of raw materials and finished merchandise entering and moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in the hosiery manufactured by plaintiff.

20. All of the acts of defendants hereinabove complained of, constitute unfair labor practices which directly affect, burden and obstruct interstate commerce.

21. The total damages directly sustained by plaintiff because of the aforesaid wrongful acts of defendants, as hereinabove related, equal \$1,171,957.47, and under the provisions of the Clayton Act (the Act of Congress of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731, 15 U. S. C. A. Sec. 15), plaintiff is entitled to recover the aforesaid damages three-fold, together with the costs of suit, including a reasonable attorney's fee.

Wherefore, plaintiff seeks to recover from defendants the sum of \$3,515,872.41, with interest thereon at the rate of six per centum per annum from the date of the filing of this suit, together with costs of this suit, including a reasonable attorney's fee.

(sgd) SYLVAN H. HIRSCH,

1632 Bankers Securities
Building, Philadelphia, Pa.,
Attorney for Plaintiff.

ARNO P. MOWITZ,

HARRY G. SUNDHEIM,

SUNDHEIM, FOLZ & SUNDHEIM,

Of Counsel for Plaintiff.

**AFFIDAVIT OF DEFENSE OF WILLIAM
LEADER**

(Filed Oct. 27, 1938)

State of Pennsylvania,
County of Philadelphia, ss:

William Leader, being duly sworn according to law, deposes and says that he is one of the defendants above named; that he has a full, just, complete and legal defense to all of the Plaintiff's Second Amended Statement of Claim, in the above entitled matter, and makes answer thereto as follows, to wit:

1. Admitted.

2. Admitted.

3. Admitted.

4. It is specifically denied that this court has jurisdiction based upon the Act of Congress of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731, (15 U. S. C. A. Sec. 15) known as the Clayton Act, which entitles any person who is injured in his business or property by reason of anything forbidden by the so-called "anti-trust laws" of the United States, (the Act of Congress of July 2, 1890, c. 647, Sec. 1 et seq., 26 Stat. 209, 15 U. S. C. A. Sec. 1 et seq., known as the Sherman Act, and the Act of Congress of October 15, 1914, c. 323, Sec. 1 et seq., 38 Stat. 730, 15 U. S. C. A. Sec. 12, et seq., known as

the Clayton Act), to recover three-fold the damages sustained by him, together with the costs of suit, including a reasonable attorney's fee; but to the contrary it is averred that the allegations of the plaintiff's statement of claim do not aver such facts as would grant this court jurisdiction in accordance with the acts above recited and the decisions thereunder, and this defendant therefore denies the allegations set forth in Paragraph 4.

5. This defendant admits that the plaintiff company employs approximately 2500 men and women in its manufacturing operations. Defendant has made inquiry, but is unable to ascertain the truth of the other averments in Paragraph 5; that the said facts are ~~entirely~~ within the exclusive knowledge of the plaintiff herein, and not available to the defendant, and the defendant therefore denies them, and if found material at the trial of the issue joined, will demand strict proof thereof in accordance with the allegations set forth therein.

6. Defendant has no knowledge or information as to the averments set forth in Paragraph 6, relating to the purchase of raw material and the sale and distribution thereof by the said plaintiff. He has attempted to ascertain this information, but the same is within the exclusive knowledge of the plaintiff herein, and the defendant is therefore unable to either admit or deny the allegations set forth therein, and if the same become material at the trial of the issue joined, demands strict proof of the averments in Paragraph 6.

Defendant denies that the wrongful acts committed by defendants as hereinafter related, restrain or obstruct the free flow of plaintiff's interstate commerce and business; but to the contrary defendant avers that no wrongful acts of any nature, kind or character were committed by this defendant in his representative capacity or personally.

7. Defendant denies that plaintiff operated its business on what is popularly known as the "open shop principle" under which the company had no contractual relations with any outside union, nor were its employees required to belong to any such union, but that the company nevertheless dealt directly and collectively bargained with its employees on all matters concerning their rates of pay, hours of work and general working conditions; but to the contrary defendant avers that the plaintiff operated its business on what is popularly known as an anti-union shop, and did not have any collective bargaining arrangements with any person or group of persons in its employ.

This defendant, being advised by counsel, believes and therefore avers that as an individual defendant, the averments as to membership in the defendant union are not directed against him as an individual defendant, and therefore he is not required to reply to same. If, however, the matter becomes material as to this defendant, he demands strict proof thereof at the time of the issue joined.

8. Defendant being informed by counsel, believes and therefore avers that the averments set forth therein relate to the defendant union, and

therefore do not require an answer by this defendant. If, however, the matter becomes material as to this defendant, he demands strict proof thereof at the time of the issue joined.

9. Defendant denies that prior to May 6, 1937, and on all dates hereinafter mentioned, by reason of defendant's failure to unionize plaintiff's plant on what is known to be a "closed shop" basis, the defendants thereupon decided upon more drastic and extreme measures to force the unionization of plaintiff's plant and to force plaintiff to sign what is popularly known as a "closed shop union agreement" under which only the members of defendant's union can be employed to work in plaintiff's plant; that plaintiff would be compelled to deduct union dues from the pay of all its workers, and in other respects plaintiff would be under the complete domination of the defendant union, and to this end defendant did unlawfully seek to force, coerce, intimidate and compel the employees of plaintiff to become members of defendant's union, and to compel plaintiff to sign a closed shop union agreement, and that defendants have on numerous occasions threatened plaintiff's employees with severe bodily harm, put them in fear of their lives and threatened harm to the members of their families, unless said employees would become members of defendant's union, against their own free will and accord, and in many instances, some of said threats had actually been carried out. To the contrary, it is averred that this defendant individually or in a representative capacity was at no time a party to any agreement or understanding to use drastic and

extreme measures to force unionization of the plaintiff's plant, or to force plaintiff to sign a closed shop union agreement; and that this defendant individually or in a representative capacity did not in any manner whatsoever, seek to force, coerce, intimidate or compel employees of plaintiff to become members of the defendant's union. That this defendant, individually and in a representative capacity, did not at any time threaten any employees of the plaintiff with severe bodily harm, or put them in fear of their lives; that this defendant, individually or in a representative capacity, did not threaten any member in the families of the employees of the plaintiff, and did not at any time carry out any threats as averred in Paragraph 9.

10. It is denied that in addition to said threatened attacks and the use of force and intimidation against plaintiff's employees, defendant individually and in a representative capacity unlawfully combined and conspired together to force entry into plaintiff's plant, to damage its machinery and equipment, and thereafter to retain exclusive and unlawful possession of plaintiff's plant, with the purpose and intent of restraining, obstructing and interfering with plaintiff's manufacturing operations, and restraining or controlling the supply of plaintiff's products entering or moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in said products, and for the further purpose of forcing plaintiff to sign a closed shop union agreement against its own free will and accord. To the contrary, this defendant avers that he, in his repre-

*Affidavit of Defense of
William Leader*

representative capacity or personally, did not at any time unlawfully combine and conspire with any other person or persons, organization or organizations, to force entry into the plaintiff's plant, or to commit any of the other acts complained of in Paragraph 10. This defendant did not at any time, in his representative capacity or personally, conspire to or do any act which might cause unreasonable restraint in interstate commerce of the products of the plaintiff.

Defendant denies that he, in his representative capacity or personally, took part in, instigated any other person to participate, or conspired to commit the acts complained of in Paragraph 10, more specifically, the breaking into the plant of the plaintiff and committing the damages therein set forth in detail, and denies each and every the averment and allegations as set forth in said Paragraph 10 relating thereto, as if set forth herein in extenso.

This defendant avers that at the special instance and request of the defendant, his agents or employees, he, in his individual capacity, was requested to come into the plant of the plaintiff by the said William Meyers, and therefore denies that he and other members of the defendant union in large number approached the said William Meyers for any purpose whatsoever. It is admitted that this defendant did have a conversation with the said William Meyers relating to collective bargaining, but it is denied that he at that time demanded that the said William Meyers sign a closed shop union agreement.

11. This defendant avers that the information of the plaintiff upon which it bases its allegations in Paragraph 11 is incorrect, and therefore denies that he, as President of the Union, was present at all times that the alleged acts complained of were committed; and further denies that they were carried out under his personal direction, supervision and observation; but to the contrary avers that he did not appear upon the scene of the occurrence until a time after some of the acts complained of had commenced; that he did not at any time appear in any representative capacity and that he was not authorized to act for and on behalf of the union in any matters whatever relating to the occurrences set forth in the plaintiff's statement of claim. He does further aver that he personally did not direct or supervise any of the alleged acts complained of by the plaintiff, and did not participate therein.

12. Defendant denies that after the occurrences hereinabove complained of on May 6, 1937, defendants caused and permitted approximately 150 or more of their members to take and continuously retain exclusive possession of plaintiff's premises through the medium of what is popularly known as a "sit-down", up to and including June 23, 1937, during which period defendants refused to permit plaintiff's employees who desired to work and who were not members of the union, to follow the usual and customary occupations and duties, and furthermore, refused to permit plaintiff's office employees to come upon the premises and keep and maintain the books and records of plaintiff; and that to this end, defendants barred the doors to all officers and

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William Leader*

employees of the plaintiff, thereby refusing them access to their own plant and working premises, the defendants placing new locks and bolts on all entrances to plaintiff's plant in order to carry out this purpose. To the contrary, it is averred that this defendant did not, either in a representative capacity or personally, take any part in the several acts complained of in Paragraph 12, nor did he participate in any of the acts alleged therein.

13. It is denied that this defendant, either in a representative capacity or personally, retained unlawful possession of plaintiff's premises from May 6, 1937 to June 23, 1937. It is further denied that he caused or directed any other person or persons to sit down on plaintiff's premises. It is admitted that an order of the United States District Court directed those persons in possession of the plaintiff's premises to vacate the same.

14. It is denied that this defendant, in a representative capacity or personally, unlawfully entered upon the plaintiff's premises and it is further denied that any other person or persons were acting under the direction or control of this defendant, or that this defendant in any capacity directed the use of force and violence against the plaintiff, or to damage any of the plaintiff's premises, machinery or equipment.

This defendant is unable to reply in detail as to the other averments of Paragraph 14 relating to the items of damage. The said items are entirely within the personal knowledge and information of the plaintiff herein, and therefore this defendant can-

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William Leader*

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not either admit or deny the averments as set forth; and if same becomes material, will demand at the time of the issue joined, strict proof of the various items as listed, and the fair and reasonable market value thereof.

15. It is denied that this defendant, in a representative capacity or personally, unlawfully entered upon the plaintiff's premises, and it is further denied that any other person or persons were acting under the direction or control of this defendant, or that this defendant in any capacity directed the use of force and violence against the plaintiff, or to damage any of the plaintiff's premises, machinery and equipment.

Defendant has no knowledge or information as to any of the averments of items of damage set forth therein, or by whom they were committed; that defendant is unable to obtain any information relevant thereto, as same is entirely within the exclusive knowledge of the plaintiffs herein, and if the matter becomes material, demands strict proof thereof at the time of the issue joined, both as to the items of damage, and the fair and reasonable market value thereof.

16. It is denied that the defendant, either in a representative capacity or personally, was in any manner responsible for the alleged damage and destruction of plaintiff's factory premises, or responsible for any illegal acts of any person or persons committed, and further avers that he was not responsible for the inability of the plaintiff to op-

erate its manufacturing machinery and equipment and to ship its merchandise.

Defendant being advised by counsel, believes and therefore avers that all of the allegations set forth in Paragraph 16, are of a speculative and indefinite nature, and not such as should be considered as an item of damage in this action, and for that purpose specifically denies each and every of the allegations of Paragraph 16, as if denied in extenso herein. If deemed material to the issue when joined, this defendant requests strict proof of each and every of the allegations thereof.

17. Defendant denies that he, individually or in a representative capacity, unlawfully took possession of and damaged the plaintiff's premises, and further avers that the allegations in Paragraph 17 as to loss of orders for hosiery are uncertain and conjectural in nature, and are not proper items of damage in the instant case, and therefore denies same. If this item shall be material to the issue joined, the defendant being unable to obtain any information relative thereto, the same being entirely and exclusively within the knowledge of the plaintiff, demands strict proof thereof by the plaintiff.

18. It is averred that the plaintiff has been misinformed as to the allegations set forth in Paragraph 18, and it is specifically denied that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property and injury to persons, were authorized or participated in or ratified by the offi-

cers and individual defendants named in this amended complaint, and by the members of defendant's union; but to the contrary it is averred that any and all of the alleged acts complained of by the plaintiff were not committed by this defendant personally or as a representative or agent for any other person, persons, or organization, and that none of the acts were authorized by this defendant in his personal or representative capacity, and that this defendant did not commit any of the acts complained of.

19. Defendant avers that the plaintiff has been misinformed as to the allegations set forth in Paragraph 19, and therefore denies that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property, injury of persons and other acts hereinbefore related, in which the defendants unlawfully combined and conspired together, were entered into, perpetrated and carried out by defendants with the purpose and intent of unlawfully restraining or controlling plaintiff's supply of raw materials and finished merchandise entering and moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in the hosiery manufactured by plaintiff; but to the contrary avers that this defendant, did not in his personal capacity or as a representative of the defendant union, unlawfully combine or conspire together with any other person or persons to unlawfully restrain or control plaintiff's supply of raw materials and the finished merchandise entering and moving in interstate commerce, or to ac-

*Affidavit of Defense of
William Leader*

comply with an unreasonable restraint of interstate commerce in the hosiery manufactured by the plaintiff. This defendant avers that he took no part in the acts complained of by the plaintiff in its statement of claim, and that he did not conspire to commit any of the acts complained of, nor did he instigate any other persons to commit any of the acts complained of.

20. Defendant being informed by counsel, believes and therefore avers that the allegations set forth therein are a legal conclusion, and therefore need not be answered by him.

21. It is specifically denied that the damages sustained by the plaintiff because of the aforesaid wrongful acts, were due to any act or actions of the defendant as above related, and it is further denied that they equal \$1,171,957.47. It is further denied that the provisions of the Clayton Act as set forth in Paragraph 21 relate to the rights of the plaintiff herein, but to the contrary it is averred that the acts complained of by the plaintiff herein do not come within the provisions of the Clayton Act. It is further averred that this defendant had no part, either personally or in a representative capacity, in any of the alleged acts complained of by the plaintiff herein; that as to the item of damages set forth therein, the said sum is entirely within the personal knowledge of the plaintiff herein, and the defendant cannot either admit or deny the averments thereof, for the reasons more specifically set forth above; and if the same becomes material, demands strict proof thereof at the time of trial.

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William Leader*

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Wherefore, this defendant requests this Honorable Court to dismiss the action against him, either in his individual capacity or as agent for the defendant union.

(sgd) WILLIAM LEADER.

BENJ. R. SIMONS,
Attorney for Defendant.

Sworn to and subscribed before me this 26th day of October, A. D., 1938.

DOROTHY BONX,
Notary Public.

(Seal)

My commission expires 3/9/39.

*Affidavit of Defense on Behalf
of American Federation of Full Fashioned
Hosiery Workers*

**AFFIDAVIT OF DEFENSE ON BEHALF OF
AMERICAN FEDERATION OF FULL FASH-
IONED HOSIERY WORKERS (sometimes known
as American Federation of Hosiery Workers),
PHILADELPHIA BRANCH NO. 1, LOCAL NO.
706, AN UNINCORPORATED ASSOCIATION, ON
BEHALF OF ITSELF AND ALL THE
MEMBERS THEREOF.**

(Filed Oct. 27, 1938)

State of Pennsylvania:

County of Philadelphia, ss:

Huey Brown, being duly sworn according to law, deposes and says that he is Secretary of the American Federation of Full Fashioned Hosiery Workers (sometimes known as American Federation of Hosiery Workers), Philadelphia Branch No. 1, Local No. 706, an unincorporated association, on behalf of itself and all the members thereof, one of the defendants above named, and files the following, its defense to the Plaintiff's Second Amended Statement of Claim, and does aver that it has a full, complete and entire legal defense to all of the averments set forth therein, and replies in particular to each of them as follows:

1. Admitted.

2. It is admitted that at the time of the occurrence set forth in the Statement of Claim, the per-

*Affidavit of Defense on Behalf
of American Federation of Full Fashioned
Hosiery Workers*

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sons named therein as officers were officers of this defendant.

3. Admitted.

4. It is specifically denied that this court has jurisdiction based upon the Act of Congress of October 15, 1914, c. 323, Sec. 4, 38 Stat. 731 (15 U. S. C. A. Sec. 15), known as the Clayton Act, which entitles any person who is injured in his business or property by reason of anything forbidden by the so-called "anti-trust laws" of the United States, (the Act of Congress of July 2, 1890, c. 647, Sec. 1 et seq., 26 Stat. 209, 15 U. S. C. A. Sec. 1 et seq., known as the Sherman Act, and the Act of Congress of October 15, 1914; c. 323, Sec. 1 et seq., 38 Stat. 730, 15 U. S. C. A. Sec. 12, et seq., known as the Clayton Act), to recover three-fold the damages sustained by him, together with the costs of suit, including a reasonable attorney's fee; but to the contrary it is averred that the allegations of the Plaintiff's Statement of Claim do not aver such facts as would grant this court jurisdiction in accordance with the acts above recited and the decisions thereunder, and this defendant therefore denies the allegations set forth in Paragraph 4.

5. This defendant admits that the plaintiff company employs approximately 2500 men and women in its manufacturing operations. Defendant has made inquiry, but is unable to ascertain the truth of the other averments in Paragraph 5; that the said facts are entirely within the exclusive knowledge of the plaintiff herein, and not available unto the de-

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of American Federation of Full Fashioned
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fendant, and the defendant therefore denies them, and if found material at the trial of the issue joined, will demand strict proof thereof in accordance with the allegations set forth therein.

6. Defendant has no knowledge or information as to the averments set forth in Paragraph 6 relating to the purchase of raw material and the sale and distribution thereof by the said plaintiff. They have attempted to ascertain this information, but the same is within the exclusive knowledge of the plaintiff herein, and the defendant is therefore unable to either admit or deny the allegations set forth therein, and if the same become material at the trial of the issue joined, demands strict proof of the averments in Paragraph 6.

Defendant denies that the wrongful acts committed by defendants as hereinafter related, restrain or obstruct the free flow of plaintiff's interstate commerce and business; but to the contrary defendant avers that no wrongful acts of any nature, kind or character were committed by this defendant or on its behalf by any of its agents or members.

7. Defendant denies that plaintiff operated its business on what is popularly known as the "open shop principle" under which the company had no contractual relations with any outside union, nor were its employees required to belong to any such union, but that the company nevertheless dealt directly and collectively bargained with its employees on all matters concerning their rates of pay, hours of work and general working conditions. To the contrary, defendant avers that the plaintiff operated its

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of American Federation of Full Fashioned
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business on what is popularly known as an anti-union shop, and had no collective bargaining arrangements with any person or group of persons in its employ.

Defendant avers that the plaintiff has been misinformed as to the facts that but a very small minority of its employees were members of the defendant union on May 6, 1937, and but a very small minority of its employees were members of the defendant union on any of the dates hereinafter mentioned, of their own free will and accord; but to the contrary avers that a large number of employees of the plaintiff were members of the defendant union on May 6, 1937, and the dates thereafter mentioned in the statement of claim, and that all of the said members were affiliated of their own free will and accord.

8. It is denied that for some time prior to May 6, 1937 defendant union unsuccessfully endeavored to enroll all of plaintiff's employees in its membership, which employees, however, preferred of their own free will and accord not to join any organized union, and more particularly not to join defendant's union. To the contrary, it is averred that those employees of the plaintiff who affiliated with the defendant union, did so of their own free will and accord, and not as a result of any efforts or attempts by the defendant to enroll them among its membership.

9. Defendant avers that the plaintiff has been misinformed as to the allegations set forth in Paragraph 9, and therefore denies that prior to May 6, 1937 and on all dates thereafter mentioned, by rea-

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son of defendant's failure to unionize plaintiff's plant on what is known to be a "closed shop" basis, defendants thereupon decided upon more drastic and extreme measures to force the unionization of plaintiff's plant, and to force plaintiff to sign what is popularly known as a "closed shop union agreement" under which only the members of defendant's union can be employed to work in plaintiff's plant; plaintiff would be compelled to deduct union dues from the pay of all its workers, and in other respects plaintiff would be under the complete domination of the defendant union, and to this end defendants did unlawfully seek to force, coerce, intimidate and compel the employees of plaintiff to become members of defendant's union, and to compel plaintiff to sign a closed shop union agreement, and defendants had on numerous occasions threatened plaintiff's employees with severe bodily harm, put them in fear of their lives and threatened harm to the members of their families, unless said employees would become members of defendant's union, against their own free will and accord, and in many instances, some of said threats had actually been carried out. To the contrary, defendant avers that it did attempt to obtain a closed shop contract with the plaintiff company, which contract was similar to each and every other contract entered into by the defendant and the other hosiery manufacturers in the City of Philadelphia. Defendant denies, however, that it decided upon more drastic and extreme measures to force the unionization of plaintiff's plant, and avers that no action was taken or contemplated by the defendant to use any drastic or extreme measures

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to force plaintiff to sign a closed shop union agreement. Defendant further avers that the plaintiff is misinformed as to the inferences it has drawn and averred in Paragraph 9 as to the content of a closed shop union agreement, and that the contract did not provide that the plaintiff would be under the complete domination of the defendant union. Defendant further avers that any of the employees of the plaintiff company who affiliated with the defendant, did so of their own free will and accord, and that no force, coercion or intimidation was practiced upon any of the plaintiff's employees. Defendant further denies that any threats had actually been carried out by it with regards thereto.

10. Defendant denies that in addition to said threatened attacks and the use of force and intimidation against plaintiff's employees, defendants unlawfully combined and conspired together to force entry into plaintiff's plant; to damage its machinery and equipment, and thereafter to retain exclusive and unlawful possession of plaintiff's plant, with the purpose and intent of restraining, obstructing and interfering with plaintiff's manufacturing operations and restraining or controlling the supply of plaintiff's products entering or moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in said products, and for the further purpose of forcing plaintiff to sign a closed shop union agreement against its own free will and accord. To the contrary, defendant avers that it did not unlawfully combine and conspire together to force entry into the plain-

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of American Federation of Full Fashioned
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tiff's plant; that it did not conspire and combine together to damage the machinery and equipment of the plaintiff and to retain exclusive and unlawful possession of the plaintiff's plant for the purposes set forth in Paragraph 10, nor for any other purpose. Defendant denies that it committed any of the unlawful acts related in the averments of Paragraph 10.

It is specifically denied that members of the defendant union and/or those instigated by them, through the use of force and violence and without warning to plaintiff's officers and in pursuance of said unlawful conspiracy, broke down the locked doors of plaintiff's factory, stoned its windows on four floors and thereupon forced their way into the factory premises, destroying office partitions, desks, typewriters, computing machines, over-turning files, scattering records, throwing finished hosiery about the floor and out the windows, and did likewise wreck and demolish the machinery and equipment on said premises; that in addition to the above, they set upon William Meyer, President of Apex Hosiery Company, and F. Elwood Struve, its general manager, and by physical force and violence severely injured both of the aforesaid persons, William Meyers receiving a swollen head, cuts, bruises and contusions of the body, and F. Elwood Struve receiving two broken ribs and other bodily harm; that in addition, defendant's members and/or those instigated by them set upon the employees of Apex Hosiery Company who were still on the factory premises and who were not members of the defendant union, severely injuring many of them, more

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particularly two of said persons, necessitating their removal to a hospital in a serious condition; but to the contrary, it is averred that neither this defendant nor any agent or member thereof by and with its consent or by its instigation in any manner whatsoever, were responsible for any of the acts complained of, and it is further averred that no combination or conspiracy was entered into for the purpose of committing any of the acts complained of.

It is denied that immediately upon the completion of the said forcible entry and destruction of plaintiff's premises, defendants William Leader and other members of defendant union, in large numbers, approached William Meyers, plaintiff's President, in the demolished office of the Company and demanded that he, then and there, although in a dazed and injured condition, sign a closed union shop agreement. To the contrary, it is averred that this defendant gave no authorizations or instructions to any of its officers or members to act for and on its behalf in contacting or discussing with the said William Meyers matters relating to a contract with it, but this defendant, being informed, believes and therefore avers that the plaintiff through its agents, workmen or employees, did specifically request the defendant William Leader to come in and upon the premises of the plaintiff for the purpose of discussing the situation with the said William Meyers, and that the said William Leader came there as a result of this request and not as a result of any orders or instructions from this defendant.

11. It is denied that all the aforesaid wrongful

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acts against the employees of plaintiff and against its plant and equipment and the resulting destruction and personal injuries hereinabove related, were carried out under the personal direction, supervision and observation of the defendant William Leader, as President of the Union, who was present at the time said attack took place; but to the contrary it is averred that neither William Leader nor any other officer or member of the defendant union was authorized, empowered or instructed to do, supervise or instigate any of the acts complained of, and that this defendant was not in any manner whatsoever involved in the perpetration of any of the acts complained of, either directly or indirectly.

12. It is denied that after the occurrences hereinabove complained of on May 6, 1937, defendants caused and permitted approximately 150 or more of their members to take and continuously retain exclusive possession of plaintiff's premises through the medium of what is popularly known as a "sit-down", up to and including June 23, 1937, during which period defendants refused to permit plaintiff's employees who desired to work and who were not members of the union, to follow the usual and customary occupations and duties, and furthermore, refused to permit plaintiff's office employees to come upon the premises and keep and maintain the books and records of plaintiff, and that to this end defendants barred the doors to all officers and employees of the plaintiff, thereby refusing them access to their own plant and working premises, the defendants placing new locks and bolts on all entrances

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to plaintiff's plant in order to carry out this purpose. To the contrary, it is averred that this defendant did not cause or permit approximately 150 or more of their members to retain exclusive possession of the plaintiff's premises. Such action, if committed, was not done by and with the consent, approval or instigation of this defendant. This defendant did not authorize or empower any person or persons to acts for or on its behalf in any of the matters related to in Paragraph 12 of the plaintiff's second amended statement of claim.

13. It is denied that the unlawful possession of the plaintiff's premises by the defendants continued from May 6, 1937 to June 23, 1937, the date on which the defendants, and/or those whom they caused or directed to "sit-down" on plaintiff's premises vacated said premises, pursuant to an Order of the United States District Court for the Eastern District of Pennsylvania, as of March Term, 1937, No. 9741, entered June 22, 1937, commanding them so to do, and pursuant to the mandate of the United States Circuit Court of Appeals for the Third Circuit, entered June 21, 1937, as of March Term, 1937, No. 6479, in which the aforesaid persons in possession of plaintiff's premises were declared by said court to be "lawless individuals" who had "forced themselves upon and into the plaintiff's property" and thereafter "retained illegal possession of it"; but to the contrary, it is averred that neither the defendant nor any of its officers or agents were unlawful in possession of the plaintiff's premises as averred therein; but the defendant being informed,

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believes and therefore avers that those occupying the premises of the plaintiff were former employees of the plaintiff, which action was taken by them as individuals and not for or on behalf of this defendant.

14. It is denied that as a result of the unlawful entry upon plaintiff's premises by the defendants and/or other persons acting for and under the direction of defendants, and the use of force and violence by them as aforesaid, defendants damaged plaintiff's factory premises and the merchandise, machinery and equipment therein located. To the contrary, it is averred that the unlawful entry was not by this defendant, its officers, agents or any of its members acting for and under the direction of the defendant; but as averred before, the defendant has been informed, believes and therefore avers that the said action, if any, was taken by persons who were unknown to the defendant at the aforesaid time.

This defendant is unable to reply in detail as to the other averments of Paragraph 14 relating to the items of damage. The said items are entirely within the personal knowledge and information of the plaintiff herein, and therefore this defendant cannot either admit or deny the averments as set forth; and if same becomes material, will demand at the time of the issue joined, strict proof of the various items as listed, and the fair and reasonable market values of same.

15. It is denied that between May 6, 1937, and June 23, 1937, during the aforesaid unlawful pos-

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session of plaintiff's premises, by the defendants and such other persons as were acting for and under the direction of defendants, said persons did unlawfully damage and destroy plaintiff's factory premises and the equipment and merchandise therein; but to the contrary it is averred that neither the defendant nor any of its officers or agents, acting for and on behalf of the defendant, committed any unlawful act or acts or any of the damages as set forth in Paragraph 15.

Defendant has no knowledge or information as to any of the averments of items of damage set forth therein or by whom they were committed; that defendant is unable to obtain any information relevant thereto, as same is entirely within the exclusive knowledge of the plaintiff herein, and if the matter becomes material, demands strict proof thereof at the time of the issue joined, both as to the items of damage, and the fair and reasonable market value thereof.

16. The defendant denies that any of the damages and destruction of the plaintiff's property were due to the illegal acts of this defendant, and further denies that this defendant was in any manner or means responsible for the alleged loss and damage by the plaintiff, as more specifically set forth in Paragraph 16; that this defendant has been unable to ascertain the facts as averred in the various sub-headings of Paragraph 16, as same are entirely within the knowledge of the plaintiff and not available to any investigation by this defendant.

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Defendant being advised by counsel, believes and therefore avers that all of the allegations set forth in Paragraph 16 are of a speculative and indefinite nature, and not such as should be considered as an item of damage in this action, and for that purpose specifically denies each and every of the allegations, of Paragraph 16, as if denied in extenso herein. If deemed material to the issue when joined, this defendant requests strict proof of each and every of the allegations thereof.

17. Defendant denies that it unlawfully took possession of and damaged the plaintiff's premises, and further avers that the allegations in Paragraph 17 as to loss of orders for hosiery are uncertain and conjectural in nature, and are not proper items of damage in the instant case, and therefore denies same. If this item shall be material to the issue joined, the defendant being unable to obtain any information relative thereto, the same being entirely and exclusively within the knowledge of the plaintiff, demands strict proof thereof by the plaintiff.

18. Defendant avers that the plaintiff has been misinformed and therefore specifically denies that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property and injury to persons, were authorized or participated in or ratified by the officers and individual defendants named in this amended complaint, and by the members of defendant's union. To the contrary, it is averred as stated above that this defendant did not authorize, participate in or ratify any act or acts complained of by

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the plaintiff in its statement of claim, and that it did not authorize any of its officers or individual defendants named to act for and on its behalf, nor commit or ratify any such action by any of its officers or individual members to do or commit any act complained of in the statement of claim.

19. The plaintiff is misinformed, and defendant therefore denies that all of the aforesaid unlawful acts of force, intimidation, threats, violence, forcible entry, illegal possession, destruction of property, injury of persons and other acts hereinbefore related, in which the defendants unlawfully combined and conspired together, were entered into, perpetrated and carried out by defendants with the purpose and intent of unlawfully restraining or controlling plaintiff's supply of raw materials and finished merchandise entering and moving in interstate commerce, or of accomplishing an undue and unreasonable restraint of interstate commerce in the hosiery manufactured by plaintiff; but to the contrary it is averred that the defendants did not in any manner on its own behalf or through its officers or members, unlawfully combine and conspire together to commit the acts complained of for the purpose of restraining or controlling plaintiff's supply of raw materials and finished merchandise entering and moving in interstate commerce, and that the defendant, its agents or employees, did not by and with the consent of the defendant or with their approval, do any act or acts in an attempt or effort to restrain interstate commerce in the hosiery manufactured by plaintiff.

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20. It is denied that this defendant did any act or acts as complained of in the plaintiff's statement of claim, and therefore did not commit any act constituting an unfair labor practice affecting, burdening or obstructing interstate commerce.

21. It is denied that the total damage sustained by the plaintiff because of the wrongful acts of this defendant as above related, amounts to \$1,171,957.47, but to the contrary it is averred that this defendant is not in any manner whatsoever responsible for any of the complaints alleged in the plaintiff's statement of claim, and therefore not responsible for any of the damages and expenses complained of by the said plaintiff.

WHEREFORE, this defendant asks that this action be dismissed as against the American Federation of Full Fashioned Hosiery Workers (sometimes known as American Federation of Hosiery Workers), Philadelphia Branch No. 1, Local 706.

(sgd) HUEY BROWN.

BENJ. R. SIMONS,
Attorney for Defendant.

Sworn to and subscribed before me this 26 day of October, A. D., 1938.

DOROTHY BONX,
Notary Public.

(Seal)

My commission expires 3/9/39.

TESTIMONY

(Filed April 18, 1939)

Philadelphia, Pa., March 13, 1939

Before HON. WILLIAM H. KIRKPATRICK, J., and a
Jury.

Present:

SYLVAN H. HIRSCH, Esq.,
ARNO P. MOWITZ, Esq.,
SUNDHEIM, FOLZ & SUNDHEIM, Esqs., representing
the Plaintiff.

M. HERBERT SYME, Esq.,
BENJAMIN R. SIMONS, Esq.,
MAURICE ABRAHAM, Esq.,
ARTHUR V. MEIGS, Esq.,
SYME AND SIMONS, Esqs., representing the Defend-
ants.

Jury impaneled and sworn or affirmed March 13,
1939.

THE COURT:

Well, now, gentlemen, we are ready in the
Apex Hosiery matter. I think in this case it
probably would be well to draw alternates as
well as just the jurors, and I think the way to
do it will be to draw eighteen first, and then
draw four alternates afterwards, and when they

go over there have them sit separately so you will know which are which, and exercise your three challenges as to the eighteen, and each have one challenge as to the four alternates. That will leave you two alternates.

Now, if you will draw the panel and send them over to the other room we will go over there and you can strike them over there, and that will give us this room as quickly as possible.

(Eighteen jurors were called by the Clerk).

MR. LILLY:

That is eighteen, now.

THE COURT:

I think we might as well call four more, with the understanding that the alternate jurors are to be drawn from the last four called.

MR. HIRSCH:

That will give us each three strikes on the main jury?

THE COURT:

Three strikes on the main and one on the alternates.

(Four additional jurors were called by the Clerk).

THE COURT:

We will just move over there. Take all the witnesses, parties, jurors and everybody over there.

MR. HIRSCH:

Judge Kirkpatrick, there may be some challenges for cause by reason of relationship or

knowledge of the parties, or something like that, and before we exercise our peremptory challenges would it be advisable to challenge those persons for cause, and then have their places filled?

THE COURT:

Well, how do you want to challenge? Are you both agreed that they should be excused?

MR. HIRSCH:

I think so.

MR. SYME:

I don't know whether we would agree on the causes for which they would be excused, but—

THE COURT:

Well, what I mean is that if you are going to challenge for cause it will have to appear on the record what the cause is.

MR. SYME:

That is right.

THE COURT:

If you mutually agree that certain jurors shall be excused we can save that much time, that is all; whatever you want to do about it.

MR. HIRSCH:

I had primarily or preliminarily the question of knowledge of the attorneys in the case.

MR. SYME:

Well, I think there are other questions. For instance, I definitely would be opposed to jurors who are fundamentally opposed to organized labor or to unions.

THE COURT:

I can ask any general questions you want, but if preliminarily there are any jurors which you can agree should be excused for any reasons known to both of you, why, you can excuse them now and send over others.

MR. SYME:

Frankly, I don't know any of the jurors—

THE COURT:

All right.

MR. SYME:

And I don't know any objection, ~~except~~, of course, for peremptory cause.

MR. HIRSCH:

Well, in fairness to Mr. Syme, I don't know the juror to whom I am referring, Mrs. Coyne, but my partner, Mr. Folz, is a friend of Mrs. Coyne, and I don't think Mrs. Coyne should sit.

THE COURT:

All right. Now, you both agree that Mrs. Coyne should be excused?

MR. SYME:

Of course.

THE COURT:

Very well. Send over another juror, then.

MR. HIRSCH:

Now, is there anyone else in this jury panel who is friendly with any of the attorneys in this case? This is Mr. Syme, and Mr. Simons, who represent the defendants, and I am Mr. Hirsch, who represents the Plaintiff; or are you

friendly or related to any of the defendants named in this case?

MR. SYME:

Or to the plaintiffs.

MR. HIRSCH:

Or to the plaintiffs in this case. The Apex Hosiery Company is the plaintiff.

THE COURT:

Well, I will ask the general questions if you want those asked.

MR. SYME:

I have prepared several general questions. I haven't shown them to Mr. Hirsch. I don't know whether he will object to them or not.

THE COURT:

All right, excuse Mrs. Coyne, and have another juror drawn in her place.

(Another juror was drawn.)

MR. HIRSCH:

Here are the questions. I don't think number two is a proper question. I don't know that number one is, either.

THE COURT:

Well, there is just a question whether you want the Court to ask those questions or not. I can put it in this way, Mr. Hirsch, I think it would be proper to ask the jurors whether they are opposed to organized labor to such an extent that they could not render a fair verdict in this case.

MR. HIRSCH:

I think that is a proper question.

MR. SYME:

That is all right.

THE COURT:

I don't think the second one is a question that bears on the competency of the jurors. If that question is objected to—

MR. HIRSCH:

That is objected to.

THE COURT:

—I will not ask that question.

MR. SYME:

All right. You don't object to three and four?

MR. HIRSCH:

Let me see those.

MR. SYME:

Three, four, five and six, rather, I should have said:

MR. HIRSCH:

Well, they would have to be enlarged.

MR. SYME:

Yes.

MR. HIRSCH:

I have no objection if those questions are enlarged so it is shown whether they have a fixed opinion which would prevent them from—

THE COURT:

Yes, I will take care of that.

MR. HIRSCH:

I would like you to ask about the relationship—

THE COURT:

Yes.

MR. HIRSCH:

—to the various parties, and so forth.

THE COURT:

Oh, I will. I will ask the general question.

Now, will you let me have the pleadings, please?

Now, members of the jury, the Court is going to address certain questions to you, and they are addressed to the whole panel, and I want anyone to answer them to whom they apply, and that includes the four alternate jurors as well. The plaintiff in this case is the Apex Hosiery Company. Are any of you ladies and gentlemen stockholders, officers or employees, or have you ever been, of the Apex Hosiery Company?

(No response.)

THE COURT:

The defendants in the case are William Leader, Joseph Burge, Harry Omeig, Huey Brown, the American Federation of Full Fashioned Hosiery Workers. Are any of you related to or acquainted with any of the individual defendants that I have named? Are any of you members of the organization, the American Federation of Full Fashioned Hosiery Workers, or have you ever been a member of that organization?

(No response.)

THE COURT:

Are any of you related to or personally acquainted with counsel on either side of this case?

(No response.)

THE COURT:

Now, the parties have asked me to address certain other questions to you. Are any of you opposed to organized labor to such an extent that you would not be able to render a verdict; a fair verdict, in a case in which a labor union is one of the defendants?

(No response.)

THE COURT:

Have any of you read about the Apex Hosiery case, read anything in the newspapers about it?

AN ALTERNATE:

I have some time ago.

THE COURT:

Has anyone else read anything about it in the newspapers?

A JUROR:

Yes.

THE COURT:

Now, then, the members of the jury who have read about the case, have any of you formed an opinion which would make it impossible for you to render a fair verdict on the evidence in a case arising out of the occurrences that were reported in the newspapers at the Apex Hosiery plant? Do any of you feel that you have an

opinion that would prevent you from rendering a fair verdict in the case?

(No response.)

THE COURT:

Have you formed any definite opinion from the facts you have heard or learned about the Apex case so that you are convinced in your own mind of the justice and responsibilities of the parties to this case? That doesn't mean much more than what I have said. You have no definite opinions?

(No response.)

THE COURT:

If the question of a sit-down strike were to be involved in the issue which you have to try would that prejudice you to such an extent that you could not render a fair verdict, in a case in which a labor union was a defendant?

(No response.)

THE COURT:

All right, any other questions that you want put to the panel, gentlemen?

A JUROR:

Your Honor, I am a member of the American Federation of Labor, but not the Full Fashioned Workers.

MR. SYME:

Your Honor, I would like you to ask this gentleman the question whether his membership in the American Federation of Labor would prejudice him against a C. I. O. union—

THE COURT:

Yes.

MR. SYME:

—which might happen to be a defendant in the case.

THE COURT:

I think that is a proper question. Would you feel by reason of your membership in the A. F. of L. that you could not render a fair verdict in a case in which the union involved was a C. I. O. union?

THE JUROR:

I don't think so. I think I can render a fair verdict.

THE COURT:

All right.

AN ALTERNATE:

I am a member of the American Federation of Labor.

THE COURT:

Well, have you any such feeling against a C. I. O. union that you feel you couldn't render a fair verdict in a case in which they were involved?

THE ALTERNATE:

No.

MR. HIRSCH:

May I ask you to ask the converse of that question, to both of these gentlemen, whether they as members of a labor union—

THE COURT:

Let me ask both of you gentlemen, from the other point of view, would the fact that you are members of labor unions so effect your views that you could not render a fair verdict, in favor of an employer and against a labor union?

THE ALTERNATE:

No.

THE COURT:

Very well. That is the only union that is a defendant, is that right?

MR. HIRSCH:

That is all.

THE COURT:

One more question addressed to all of you, whether you are members of labor unions or not, are you opposed to the C. I. O. organization to such an extent that it would prevent you from rendering a fair verdict in a case in which a C. I. O. union was a defendant?

(No response.)

THE COURT:

All right, what is the difficulty, gentlemen?

(Discussion at side bar.)

THE COURT:

Mr. Nagle; which is Mr. Nagle, of Reading?

MR. NAGLE:

Here.

THE COURT:

You are listed here as "Retired". What was your business, Mr. Nagle?

MR. NAGLE:
I am retired.

THE COURT:
What business were you in before?

MR. NAGLE:
I was in the radiator business.

THE COURT:
Radiator business?

MR. NAGLE:
Yes.

THE COURT:
You are not connected with the hosiery business in any way?

MR. NAGLE:
No.

THE COURT:
All right.

Mr. August A. Miller, which one is he?

MR. MILLER:
Here.

THE COURT:
You are listed as "Retired", Mr. Miller.
What was your business?

MR. MILLER:
I was for many years with the Milk Producers
Association as editor of their trade paper.

THE COURT:
Thank you, sir.

(The jury was sworn.)

THE COURT:

Well, we can recess for ten minutes and then we will get started.

(Recess at 11:30 o'clock A. M.)

THE COURT:

Well, I guess we are ready to proceed, gentlemen, aren't we?

(Mr. Hirsch stated the plaintiff's case to the jury.)

THE COURT:

Well, now, it is twenty minutes after twelve. Mr. Syme, I will permit the defendants either to make a statement now or to reserve your statement until you come to open your case, whichever you prefer.

MR. SYME:

It depends entirely upon Your Honor. I mean, I won't take as much time as Mr. Hirsch, there is no doubt of that.

THE COURT:

Well, you do whatever you please. You can either make your opening statement when you return—we are going to recess for lunch.

MR. SYME:

Oh, well, that is perfectly all right.

THE COURT:

You can either make it when you return, or if you prefer to reserve it until you come to your side of the case you may do it then.

MR. SYME:

Thank you.

THE COURT:

Just a minute. I want to say to the jury, now, you have been sworn in a case which, as you have observed, is somewhat out of the ordinary, and it is a case which has had some comment in the papers. I want to caution you not to talk to anybody about this case, and I wouldn't even talk it over, the facts of the case, with the members of your own families. Don't try to arrive at any conclusion about it until you have heard all the testimony. Don't permit anyone to talk to you about it. If any one talks to you about the case tell them you are a member of the jury and that you can't talk about it, and if they persist in talking to you after that you can bring it to my attention.

Be back here at two o'clock. We may have to sit a little longer hours in this case than ordinarily, but we will try to get along as rapidly as we can.

(Recess, 12:25 until 2 o'clock P. M.)

After Recess

Present: Counsel as before noted

THE COURT:

All right, gentlemen, we are ready. Do you wish to address the jury?

MR. SYME:

Yes, Your Honor.

THE COURT:

All right.

(Mr. Syme stated the defendants' case to the jury.)

(Mr. Syme made reference to the Danbury Hatters case and the way workers were dispossessed and made penniless.)

MR. HIRSCH:

Now, if Your Honor please,—

MR. SYME:

Your Honor, I didn't interrupt Mr. Hirsch,—

MR. HIRSCH:

Well, I must interrupt you.

MR. SYME:

—notwithstanding the fact that Mr. Hirsch made a lot of exaggerated statements, I sat there, held my chair, simply because I felt that Mr. Hirsch ought to get his opportunity to present his case as he intends to develop it to the jury.

MR. HIRSCH:

Now, if Your Honor please, I very patiently

listened, and thought that Mr. Syme would only refer to the Act as a legal question, but I am sure that the history of other cases and matters to which he now refers have no relevancy in this case. I am only asking Mr. Syme to limit his remarks to this case. I don't think this is the time for Mr. Syme to bring in a history of labor legislation and cases which are in no way connected with this case and can never form a part of this case from an evidentiary standpoint. I have no desire to cut Mr. Syme off from saying anything that pertains to this case.

THE COURT:

Well, I think that what you say is correct. Counsel should confine themselves to a statement in their opening address of what they expect to establish by the evidence. I think it is proper to call the jury's attention to the fact that this is a case brought under the Sherman Anti-Trust Act, but I do not think the question of what occurred in other cases under that Act is proper to be discussed at the present time, so counsel will confine himself to a statement of what he expects to show.

MR. SYME:

Thank you, Your Honor.

(Mr. Syme continued his address to the jury.)

THE COURT:

Go ahead.

Plaintiff's Evidence

MR. HIRSCH:

I call as my first witness Huey Brown, the secretary of the union, as for cross examination.

THE COURT:

Has daily copy been ordered of this testimony?

MR. HIRSCH:

I haven't ordered it, sir.

MR. SYME:

May I talk to the Judge for a minute?

ULYSSES G. BROWN, having been duly sworn, was examined and testified as follows:

(Discussion at side bar.)

THE COURT:

At the request of counsel, and not objected to by opposing counsel, the witness is instructed by the Court that he is not bound to answer any question which will tend to incriminate him in any way or render him liable to criminal prosecution under the Sherman Act or any other Act of Congress.

MR. HIRSCH:

Note that I call him as for cross examination.

THE COURT:

Yes.

Cross Examination

BY MR. HIRSCH:

Q. Mr. Brown, you are the secretary of the American Federation of Hosiery Workers, Philadelphia Branch No. 1, Local No. 706, are you not?

A. Yes.

Q. And as such you keep the minutes of the meetings of the executive board of that union and also of the general membership?

A. Yes.

Q. I am correct, am I not, in saying that the executive board is a board composed of between one hundred and one hundred and sixty members, who are elected from the membership in the union, that is, from the various plants whose employees are members of your union?

A. No, that is not so.

Q. What is the fact? How is the executive board made up?

BY THE COURT:

Q. Would you mind telling, before we start, how many members of the union are there, or were there in May of 1937, approximately?

A. Roughly, between ten and twelve thousand.

Q. In Philadelphia?

A. Yes.

Q. Now, will you tell us how many of the members of the executive board there were and how they were elected?

A. At that time?

Q. At that time, yes, that is what we are interested in.

A. There was probably about one hundred and

fifteen or so at that time, and they were elected from shops.

BY MR. HIRSCH:

Q. That is, each shop elected so many directors or members of the executive board, depending upon the number of employees in that particular shop?

A. That is right.

Q. And how often did the executive board meet?

A. Weekly.

Q. And it was likewise called the executive committee, was it not? There wasn't an executive board and an executive committee, was there?

A. Possibly both names were used.

Q. But there was only one group of persons, that is what I mean,—

A. Yes.

Q. —irrespective of the name?

A. That is right.

Q. And the general membership met twice a month, did it not, during 1937?

A. That is right.

THE COURT:

What do you mean, the board?

MR. HIRSCH:

General membership, the members.

THE COURT:

Of the union or the board?

MR. HIRSCH:

Of the union.

BY THE COURT:

Q. How often did the board meet?

A. Weekly.

BY MR. HIRSCH:

Q. Now, then, you kept the minutes of these weekly meetings of the executive board, did you not?

A. That is right.

Q. And in those minutes you noted matters that transpired and took place at those meetings of any importance?

A. That is right.

Q. You were subpoenaed to be in court today by the plaintiff, and you were asked to produce all of the minute books of your union, were you not?

A. Yes.

Q. Do you have those, Mr. Brown?

A. They are in counsel's hands at the present time.

MR. HIRSCH:

Will counsel produce them?

MR. SIMONS:

May I say to the Court, Your Honor, our understanding was that Mr. Hirsch, who gave me a copy of the subpoena, would tell me what books you wanted. I didn't know that he wanted them today, and I didn't bring them with me. Now, if there is anything in particular that Mr. Hirsch wants from the minutes we have made certain extracts of matters, and for the purpose of saving the time of the Court and the jury we might be able to agree to the particular matters he is referring to.

BY MR. HIRSCH:

Q. I show you an excerpt from the minutes of a meeting of the executive board of your Branch 1 held on April 13, 1937, which has been approved by your counsel, and ask whether or not that was a minute which you placed in the minutes of your association at the time the meeting was held. Will you take a look, please?

(The witness examined the paper.)

A. Just the marked places you want me to—

BY MR. HIRSCH:

Q. The two places that have been marked; first, the minute of April 13, 1937.

A. If this is a copy of the minutes of my minute book this is probably—this is probably in there, but I couldn't say—

THE COURT:

Well, I think your counsel—

A. —from my memory—

THE COURT:

—agrees—

MR. HIRSCH:

Your counsel agrees—

MR. SYME:

We will agree to that, that that is in the minute book.

MR. HIRSCH:

And likewise for May 4th, will you agree that is in the minute book?

*Ulysses G. Brown Called on
Cross Examination*

MR. SYME:

Which one is that? Yes, we will agree to that.

MR. HIRSCH:

May I offer in evidence, then, or read into the record the two minutes which I consider pertinent to the case?

THE COURT:

All right.

MR. HIRSCH:

That of April 13, 1937 being a minute noted at the regular meeting of the executive board of the union, which was noted in the minute book as follows: Moved and seconded that the President of the Branch have the power to call such strikes in open shops as he sees fit. Carried.

BY MR. HIRSCH:

Q. The president of the branch is William Leader, and was on that date, was he not?

A. That is right.

MR. HIRSCH:

I also read into evidence a minute of May 4th, 1937, from the minutes of the regular meeting of the executive board of Branch 1, which reads as follows: Moved and seconded that President Leader be given power to call a strike in the Apex shop whenever he sees fit. Carried.

BY MR. HIRSCH:

Q. Mr. Brown, you were present at the Apex mill on May 6, 1937, were you not?

A. May I refuse to answer that, on the first instructions?

THE COURT:

Yes, well, that is for you to say. If you think that that question will incriminate you you have the right to refuse to answer it, and we will have to determine then whether it is such a question. You will have to determine in the first instance whether you think the answer to the question will incriminate you. If you think so you can decline to answer on that ground. Then the Court will have to determine whether your position is correctly taken or not.

THE WITNESS:

Well, I will decline to answer on those grounds, then.

BY MR. HIRSCH:

Q. Do you recall that prior to trial depositions were taken of the various officers of your union in my offices pursuant to the rules of court permitting us to do this, and that you testified?

A. To that effect?

Q. No, just—

THE COURT:

No, just that you did testify.

THE WITNESS:

Yes.

BY MR. HIRSCH:

Q. —that you testified.

MR. HIRSCH:

In accordance with the rules of court I now offer in evidence the question and answer of this witness at that time. Since he is a party to this action I have the right under Rule 26 (d) (2) to offer his deposition in evidence. I only offer the question and answer. I will not read it until I have shown it to counsel for the defendants, so that if he objects to it—it would be unfair for me to read it to the jury and then have them hear it, without going into evidence.

THE COURT:

Yes.

(The testimony was shown to Mr. Syme.)

MR. HIRSCH:

Page 12; I want the question and answer to go into the record. 26 (d) (2), Judge Kirkpatrick.

MR. SYME:

Your Honor, I think that 26 (d) (2) should be read in conjunction with (d), Use of Depositions:

“At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence . . . ”

in other words, the depositions are taken and then if Mr. Hirsch's construction is going to be used we might as well get the depositions in here and we are through with the case. The only thing that happens in the depositions is,

the depositions are taken, subject to objections to be raised in court, and to be determined by the Court at the hearing. Now, certainly you cannot now produce this deposition and say, "Well, here is the deposition, I am going to produce it." It is subject to the rules of evidence and subject to objection to be determined by the Court.

THE COURT:

Did the witness claim the privilege at the time the depositions were taken?

MR. HIRSCH:

He did not, sir, and in order that my position may be clear, I do not contend that the defendant may not object to the admission of depositions on the ground of relevancy or competency, because the rules specifically provide that that objection may be made. I don't want to be misunderstood.

MR. SYME:

I think that Mr. Hirsch's answer to that is a little bit inaccurate, also. I would much rather discuss it with Your Honor at bar, where we can show the depositions and exactly what happened.

THE COURT:

Be very glad to have you do it.

(Discussion at side bar.)

THE COURT:

I will permit this question to be asked, and direct the witness to answer this question, and

that is as far as we go at the present time. I beg your pardon; I will permit the deposition to be read as to this one question and answer.

MR. HIRSCH:

"Q. Were you present at the Apex mill on May 6th, 1937?

A. Yes."

And I would like the deposition to note, no objection to that particular question and answer by counsel for the defendants.

BY MR. HIRSCH:

Q. You were employed in the Co-Ed Hosiery Company, were you not,—

A. That is correct.

Q. —on May 6th, 1937?

A. That is correct.

Q. And it is a fact that on that day all of the employees of the Co-Ed Hosiery Company left the plant and went down to the Apex mill in order to demonstrate or picket, is that correct?

A. To my knowledge, I don't know who left the Co-Ed plant at that date.

Q. Do you have any knowledge as to whether or not your shop committee in that plant went to the management and asked for permission to go down to the Apex mill for the purpose of demonstrating or picketing?

A. I do not.

Q. Did you work at all that day at Co-Ed?

A. I worked in the morning.

Q. You didn't work in the afternoon?

A. No.

Q. Don't you know as a fact that the other members of the Co-Ed plant didn't work that afternoon, but went down to the Apex Hosiery Company?

A. I don't know as a fact.

Q. You don't?

THE COURT:

Is this May 6th?

MR. HIRSCH:

May 6th,—

THE COURT:

All right.

MR. HIRSCH:

—1937.

BY MR. HIRSCH:

Q. Who is the superintendent of Co-Ed? His name is Milleston, is it not?

A. I don't believe there is any superintendent.

Q. Who is Mr. Milleston, M-i-l-l-e-s-t-o-n?

A. I really couldn't give you his real job in the shop.

MR. HIRSCH:

Mr. Milleston, will you stand up, please?

MR. MILESTONE:

Mr. Milestone.

MR. HIRSCH:

Milestone, I am sorry.

BY MR. HIRSCH:

Q. Do you recognize that gentleman?

A. Absolutely.

Q. He is at the Co-Ed Hosiery Company, is he not?

A. Absolutely.

Q. And what is his position?

A. He works in the office, and I would give him—my own personal opinion would be general manager of the office.

Q. Now, the minutes of the general membership were also kept by you, were they not?

A. That is right.

MR. HIRSCH:

That is all at the moment, reserving the right, if Your Honor please, to recall this witness if it becomes necessary—

THE COURT:

All right.

MR. HIRSCH:

—at a later time. Mr. Milestone.

JACK L. MILESTONE, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Milestone, with whom are you connected in business?

A. Co-Ed Knitting Mills.

Q. Is that the company by whom Mr. Huey Brown is employed?

A. Yes, sir.

Q. What is his position there?

A. Huey Brown is a footer.

Q. He works on a footing machine?

A. Correct.

Q. And what is your position with that company?

A. Secretary.

Q. Do you recall the date of May 6th, 1937, when there was some trouble down at the Apex Hosiery Company?

A. I remember the date of May 6th, sir.

Q. In so far as your plant was concerned on that day did you have any requests of an unusual nature from your employees?

A. We had a—

Q. If so, by whom?

A. We had a request by committee to be permitted to go off at two-thirty.

Q. Now, you have what is known as a union mill?

A. Yes, sir.

Q. And when you speak of a committee you refer to a committee of your employees?

A. Committee of the employees.

Q. Is that what is known under a union agreement as a shop committee?

A. That is termed a shop committee.

Q. And did the committee advise you the nature or reason for their request?

A. They said that they wanted to have off to go down—

MR. SIMONS:

I object to that, if Your Honor please. There

has been no identification as to this committee. There has been no proof that they had anything to do—that they are the defendants in this case or had any connection with the defendants in this case,—

MR. HIRSCH:

If Your Honor please,—

MR. SIMONS:

—or were authorized by the defendants in this case.

MR. HIRSCH:

If Your Honor please, we will prove who the committee was, but it has been shown that this is a union mill. Therefore, these committee members were members of this union, and I think it is perfectly proper as members of the union, which is one of the defendants in this case, to testify to what was said on that occasion.

MR. SYME:

Your Honor, a union committee is in no position to bind a union. I mean, Mr. Hirsch knows that very well. It is very doubtful whether, as an unincorporated association, under the Norris-LaGuardia Act, whether an officer of the union under certain circumstances is able to bind it, but, certainly, a shop committee is frequently reversed by the union and is in no position to bind the union, its membership or its officers, and in any event, Mr. Hirsch should lay the basis; I mean, if it is, let him lay the basis for showing the fact that

the committee is able to bind them, and we will have an opportunity to disprove that.

THE COURT:

Well, the case cannot be proved all at one time, and the Court will overrule the objection. Of course, a motion to strike out may be made if it appears that those persons had nothing to do with the union and were not in any position that the union would be in any way responsible for what they did.

MR. SYME:

Your Honor will allow us an exception?

THE COURT:

Yes. You can save a lot of time, gentlemen, you don't need any exceptions any more, under the new rules.

MR. SYME:

Thank you.

THE COURT:

Every ruling I make is subject to review without exception.

BY MR. HIRSCH:

Q. Who were the members of that committee?

A. I don't recall, sir.

Q. And what function does the shop committee have in your plant? What relationship do they bear between your management and the union?

A. Between—will you ask the question again, please?

BY THE COURT:

Q. What relation—

BY MR. HIRSCH:

Q. What is the function of the shop committee?

A. The shop committee and management iron out all individual differences in the shop that they are able to.

Q. Matters that concern the employees in the shop are discussed by management with whom?

A. With the shop committee.

Q. And is this the same committee that came to you on May 6th and asked you to permit the employees of your mill to get off at 2:30?

A. The shop committee.

Q. And did they state the purpose for which they desired these employees to leave?

A. They asked to be excused at 2:30, or 2 o'clock, I don't remember when, for the purpose of going down to the Apex mill.

Q. And what did you reply?

A. The permission was not granted.

Q. And what happened?

A. At 2:30 the shop did go out.

Q. How many?

A. About one hundred and twenty-five.

Q. And how many did you have in the shop at that time?

A. Approximately one hundred and twenty-five.

Q. You are here today under subpoena are you not?

A. Yes, sir.

Cross Examination

BY MR. SYME:

Q. Mr. Milestone, your shop committee is elected from the employees in your shop, isn't that right?

A. I imagine they are, yes, sir.

Q. Yes, I mean,—

A. Yes.

Q. —they all consist of your employees?

A. Correct, sir.

Q. There are no outsiders?

A. Correct, sir.

Q. Now, in the negotiation of grievances or disputes—or, rather, in the negotiation of an agreement with you does the shop committee participate?

A. The officers participate, not the shop committee.

Q. Right, in other words, the officers of the union are distinct and apart from the shop committee, is that right?

A. Correct, sir.

Q. Right. In the negotiation of shop difficulties it frequently occurs, doesn't it, that you negotiate with the shop committee and the union officer will come in and reverse the shop committee?

A. Correct, sir.

Q. Right, and you recognize the shop committee as merely representing your employees, but not representing the union?

A. Correct.

Q. Right. Now, then, tell me, Mr. Milestone, did the union request you at any time on May 6th to let your employees go out?

A. No, sir.

Q. Did anybody on behalf of the union ask you to let your employees out on May 6th?

A. No, sir.

MR. SYME:

That is all.

Redirect Examination

BY MR. HIRSCH:

Q. And when matters relating to shop management are taken up by whom are they taken up first with the management?

A. The management is taken up—the management takes it with the shop committee.

Q. And if the management and shop committee agree on the matter is there any necessity for the union to come in?

A. If there is an agreement with the shop committee and management on matters pertaining to the shop it generally ends there.

Q. How long have you had a union agreement?

MR. SYME:

Your Honor, I object to that.

MR. HIRSCH:

I will withdraw that question.

MR. SYME:

It is entirely immaterial to the issue.

THE COURT:

It is withdrawn.

MR. HIRSCH:

It is withdrawn.

BY MR. HIRSCH:

Q. Now, then, in so far as stoppage of work is concerned for reasons which you have just given, or for other reasons, with whom in the past have you discussed such stoppages?

MR. SYME:

Your Honor, I object to that. Again, it is immaterial, and there is no evidence that there were such stoppages in the past.

THE COURT:

I will overrule the objection. It is proper to show the course of conduct and ordinary practice in order to determine the scope of the functions of the shop committee, if they are relevant.

THE WITNESS:

Question, please?

MR. HIRSCH:

Repeat the question, Mr. Rodebaugh, please.

(The question was repeated by the Reporter, as follows:

"Q. Now, then, in so far as stoppage of work is concerned for reasons which you have just given, or for other reasons, with whom in the past have you discussed such stoppages?")

A. Requests for stoppages are asked by the committee.

BY MR. HIRSCH:

Q. The shop committee?

A. By the shop committee.

MR. HIRSCH:

That is all.

Recross Examination

BY MR. SYME:

Q. Mr. Milestone, have there been other requests for stoppages?

A. Yes, sir.

Q. When?

A. There have been requests made for stoppages, a number of cases, by the union.

Q. What was the purpose of those stoppages, do you remember?

A. No, sir.

Q. You don't remember?

A. No, sir.

Q. The requests you say in the other cases were by the union?

A. Yes, sir.

Q. I see, but this request did not come from the union, but from the shop committee?

A. Correct.

Q. Then apparently you were mistaken when you said that requests for stoppages ordinarily come from the shop committee? Requests for stoppages ordinarily come from the union, but in this particular case they come from the shop committee, isn't that right?

A. Requests for stoppages have come both from the union and the committee.

Q. Do they ordinarily come from the union or from the committee?

A. Ordinarily requests for stoppages come from the union.

Q. That is right, and in this case it didn't come from the union?

A. No, sir.

Q. It came from the shop committee, is that right?

A. Correct.

Q. Now, when you say factory matters—let me ask you, when you negotiate on wages do you negotiate with the shop committee?

A. Negotiate with a separate committee specifically picked for that purpose.

Q. On wages?

A. On wages.

Q. Union representatives?

A. Yes, sir.

Q. Right; not shop committee?

A. No, sir.

Q. Right; hours the same thing?

A. Correct, sir.

Q. General standards, arbitration, and the contract?

A. Correct, sir.

Q. Right, shop committee has nothing to do with the union except grievances in the shop?

A. Internal.

Q. And even that is subject to reversal by the union, isn't that right?

A. Yes.

MR. SYME:

That is all.

MR. HIRSCH:

That is all, Mr. Milestone. Mr. Wienhold.

FRITZ WIENHOLD, having been duly sworn, was examined and testified as follows:

MR. SYME:

Your Honor, before the next witness, will you entertain my motion to strike all of the testimony of Mr. Milestone in so far as it has not at all been associated or connected in any way with the union?

MR. HIRSCH:

If Your Honor please,—

THE COURT:

Well, I will deny the motion.

MR. HIRSCH:

All right.

Direct Examination

BY MR. HIRSCH:

Q. Mr. Wienhold, with what Hosiery firm are you connected?

A. Quaker Hosiery Company.

Q. You will have to keep your voice up so everyone here can hear you.

MR. HIRSCH:

And if there is any lady or gentleman in the jury who cannot hear the witness, if you will raise your hands we will have the answer repeated.

THE WITNESS:

Quaker Hosiery.

BY MR. HIRSCH:

Q. And in what capacity are you employed there?

A. Foreman.

Q. Do you recall the date of May 6th, 1937?

A. Yes, sir.

THE COURT:

May I ask counsel whether they can agree as a fact that there is only one union of hosiery workers in Philadelphia? Is that correct?

MR. SYME:

We will agree to that, Your Honor.

THE COURT:

So agreed?

MR. SYME:

Yes.

THE COURT:

And when you talk about the union, you refer to the American Federation of Full Fashioned Hosiery Workers?

MR. SYME:

Branch No. 1.

THE COURT:

Branch No. 1.

MR. HIRSCH:

What was the last question, Mr. Rodebaugh?

(The testimony was repeated by the Reporter, as follows:

"Q. Do you recall the date of May 6th, 1937?

"A. Yes, sir.")

BY MR. HIRSCH:

Q. How many employees did you have on that day?

A. Between three hundred and three hundred and fifty.

Q. And your concern was what was known as a union shop?

A. Yes, sir.

Q. Now, what happened on that day so far as the working of your employees in the afternoon was concerned?

A. Committee came to me and asked off:

Q. What committee?

A. The shop committee.

Q. Yes, and what did they ask you?

A. They asked off for May 6th to go up to the Apex, picketing.

Q. Just so that everyone understood you, they asked to be off May 6th to go up to the Apex to picket?

A. Picketing.

Q. When did they come to you, what time on May 6th?

A. That was in the morning.

Q. And what time did they say they wanted to get off?

A. I don't recall that. I think it was before lunch.

Q. And what did you say?

A. I told them I had to take it up with the management first.

Q. And after you took it up with the management what did you tell them?

A. The management didn't approve of it, taking off.

Q. Did not approve?

A. Not approve.

MR. SYME:

Your Honor, my objection, of course, goes to this witness, all of the testimony he has given.

THE COURT:

So understood, yes.

BY MR. HIRSCH:

Q. And did they take off?

A. Yes, they took off.

Cross Examination

BY MR. SYME:

Q. The shop committee—

BY THE COURT:

Q. You say they took off; is that your employees?

A. The employees.

Q. All of them?

A. All of them.

THE COURT:

All right.

BY MR. SYME:

Q. Mr. Wienhold, did the union ask you to let your employees off?

A. The committee.

Q. The committee. The committee has nothing to do with the union, does it?

A. Well,—

Q. Well, you might explain to us a little bit further. The union has a president, isn't that right, and a vice-president,—

A. Right.

Q. —and a secretary and a treasurer? You know all of those people, you know Bill Leader and at that

time it was Joe Burge and Huey Brown and Harry Omeig, you know all of them, don't you?

A. Yes.

Q. All right. Now, this shop committee doesn't consist of officers of the union, does it?

A. No.

Q. It doesn't represent the union, does it? It represents your employees, doesn't it?

A. Right.

Q. Right. If you had a request from the union office it would be made either by Bill Leader, or Joe Burge, or one of those people, it wouldn't be made by your shop committee, is that right?

A. Right.

Q. Right. This request then did not come from the union, did it?

A. Came from the committee.

Q. That is right.

A. Shop committee.

Q. Shop committee.

MR. SYME:

That is all.

MR. HIRSCH:

That is all, Mr. Wienhold, thank you. Mr. Friedland.

JOSEPH FRIEDLAND, having been duly sworn, was examined and testified as follows:

MR. SYME:

Your Honor, for the purposes of the record, I make the same motion to strike with respect to the previous witness.

THE COURT:

Same ruling.

Direct Examination

BY MR. HIRSCH:

Q. Mr. Friedland, with what concern are you connected, and in what capacity?

A. With the Courtland division of the Gotham Silk Hosiery Company, as factory manager.

Q. And how many employees did you have on May 6, 1937?

A. How many employees that day?

Q. Yes.

A. I venture to say about four hundred and fifty.

Q. And your mill on that day was what was known as a union mill, you had an agreement with the defendant union?

A. That is right.

Q. And all the members of your mill, the employees, were members of this union, as far as you knew?

A. As far as I knew.

Q. And did your employees work on the afternoon of May 6th, 1937?

A. Part of the afternoon, yes.

Q. Until what time?

A. About 2:30.

Q. And what was it that happened on that day of an unusual nature which caused them to stop work at 2:30?

A. I don't understand that question.

BY THE COURT:

Q. Well, tell us anything you know about the

circumstances of their stopping work. How did they happen to stop?

A. The committee approached me—

BY MR. HIRSCH:

Q. What committee?

A. The shop committee approached me some time during the day and asked permission to stop at 2:30. Permission was not granted, of course.

Q. Did they indicate to you the purpose for which they desired to stop work?

A. Yes.

Q. What did they say?

A. Picketing the Apex plant.

Q. Now, permission was not granted?

A. No.

Q. Did they in fact stop work?

A. They stopped off the time that they have asked, the time that they asked to stop off.

Q. Even though permission was not granted, is that correct?

A. That is correct.

Q. And did the entire shop empty out at that time?

A. No.

Q. How many went?

A. I would say about two hundred and fifty to three hundred.

Q. The question of stoppage of work at 2:30 in the afternoon instead of the usual hour, we will say, of four o'clock, would that be a question which you in the past would take up with the union, or the union would take up with you through its officers, or would that be a question which would be taken up with management through your shop-committee.

A. I don't think I had had that experience before.

Q. And with relation to other matters pertaining to working conditions at the plant, time of arriving, and time of departing, or other such matters, with whom would you discuss those affairs if there was to be a change in schedule of just for a day, say?

A. With the shop committee.

MR. HIRSCH:

That is all. Cross examine.

Cross Examination

BY MR. SYME:

Q. You understand the shop committee also not to be part of the union, I mean, in the sense that they represent the union and bind the union,—

A. That is right.

Q. —isn't that so?

A. That is right.

Q. Shop committee represents your employees, is that right?

A. That is right.

Q. You have two shifts in your plant, don't you?

A. Yes, sir.

Q. What time does one of the shifts go off?

A. At 3:30.

Q. 3:30, so that when your employees asked you to go off at 2:30, all they were asking for was an hour off, isn't that right?

A. That is right.

Q. Sure, in other words, ordinarily they would be off at 3:30, but they asked you to be off at 2:30?

A. That is right.

Q. That is right. How long has your plant been a union mill?

MR. HIRSCH:

That is the question which Mr. Syme objected to when I asked it of the other witness.

MR. SYME:

All right, I withdraw it.

MR. HIRSCH:

I have no objections to the question. I just wanted to point that out.

MR. SYME:

Perfectly all right, Mr. Hirsch.

MR. HIRSCH:

You may answer the question.

MR. SYME:

The question is withdrawn. It is withdrawn, don't bother.

BY MR. SYME:

Q. And you say that about two hundred and fifty left and the others did not, is that right?

A. I was asked the question—

Q. Yes.

A. —whether everyone left, and I said no.

MR. SYME:

Now, that is all. Your Honor, for the purpose again of the record, all of the three mills mentioned so far, I think Mr. Hirsch will agree with me, are located in Philadelphia. I mean, there is no mill outside of Philadelphia.

THE COURT:

All right.

Redirect Examination

BY MR. HIRSCH:

Q. How far is the Courtland mill from the Apex mill?

A. Four or five blocks.

MR. HIRSCH:

Thank you, that is all.

Are there any other mill owners or representative here that were subpoenaed?

BY MR. HIRSCH:

Q. One further question for the record; you were subpoenaed, Mr. Friedland?

A. Yes, sir.

MR. SYME:

I make the same motion, Your Honor, for the record.

THE COURT:

Same ruling.

MR. HIRSCH:

We have other witnesses of a similar nature, and they will be in when I call them.

THE COURT:

All right.

MR. SYME:

If counsel wants to stipulate with respect to that I have no objection.

MR. HIRSCH:

Well, that would be helpful. That would save some time. I would like to stipulate that.

THE COURT:

It is stipulated that if called the following witnesses would testify to the following facts—

MR. HIRSCH:

Yes; that Albert Weber, of the Cambria Hosiery Company, Charles Franko, of the Interstate Hosiery Company, and Harry Burch, of the Retailers Hosiery Company, have been subpoenaed, and if they testified they would testify similarly, in effect and content to the testimony of the three witnesses who have just finished on the witness stand, the numbers of their employees ranging from one to three hundred, if I am not misinformed. I mean, I am not quite sure of that, although I don't think that is terribly important, whether it was one hundred, two hundred or three hundred in each shop.

THE COURT:

What was that?

MR. HIRSCH:

The number of employees range from one to three hundred. Maybe you have the figures, and I will accept your figures.

MR. LEADER:

Which Interstate do you mean?

MR. HIRSCH:

Langhorne or Lansdale.

MR. LEADER:

It isn't in our Branch. Just so you are not

confused, are you speaking of the Hosiery Retailers?

MR. SYME:

They are part of the Interstate?

MR. LEADER:

Yes.

MR. HIRSCH:

How many members?

MR. LEADER:

I judge about one hundred and fifty.

MR. HIRSCH:

One hundred and fifty, and how many with Weber?

MR. LEADER:

Approximately about one hundred and eighty-five.

MR. HIRSCH:

Well, will you note that of record: one hundred and fifty at the Hosiery Retailers, and one hundred and eighty-five at Weber.

THE COURT:

That is agreed, is it, Mr. Syme?

MR. SYME:

Yes.

THE COURT:

All right, subject to your objection.

MR. SYME:

That is right, with respect to the whole testimony.

THE COURT:

Yes.

WILLIAM MEYER, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Meyer, will you keep your voice up so that Judge Kirkpatrick, on the one side, and the ladies and gentlemen of the jury, on the other, may hear you? What is your position with the Apex Hosiery Company?

A. President.

Q. And for how many years have you been president of this company?

A. Since 1922.

Q. And for how many years have you been connected with the company?

A. Since 1908.

Q. And when was the company founded, and by whom?

A. By my father, in 1900.

Q. And it has been located in Philadelphia since 1900?

A. Yes.

Q. Your plant is located at Fifth and Luzerne Streets, is it not?

A. That is right.

Q. And what is the particular type of business which you conduct?

A. Ladies silk full fashioned hosiery.

Q. You make nothing but ladies full fashioned hosiery, is that correct?

A. That is right?

Q. And how many persons did you employ on May 6th, 1937?

A. Approximately twenty-five hundred.

Q. And with relation to the size of other mills in the City of Philadelphia how does yours compare?

A. At least twice as large.

Q. And with reference or relation to the size of other hosiery mills in the United States, how does yours compare?

A. The second or third place, I just don't know.

Q. And how many hosiery mills are there in the United States, as far as you know?

A. Three hundred—full fashioned hosiery mills?

Q. Full fashioned hosiery, making what you make.

A. Why, I would say over three hundred.

Q. And you are either second or third in size?

A. Yes.

Q. In 1937 what was your average weekly payroll, in round figures, if you recall?

A. It will run between—it will run between sixty-five and seventy thousand dollars a week.

Q. Between sixty-five and seventy thousand dollars per week, and what was the average monthly production—

MR. SYME:

I object to that, if Your Honor please. Your Honor,—

MR. HIRSCH:

I haven't finished the question yet.

MR. SYME:

Oh, I am sorry. I thought you had.

BY MR. HIRSCH:

Q. —in 1937, prior to May 6th, that is, the first four months of the year of 1937, in dozens, average monthly production.

MR. SYME:

I object—

A. That was about one hundred—

MR. SYME:

—to that.

A. —thousand dozen—

THE COURT:

Wait a minute. When counsel objects, don't answer.

THE WITNESS:

Excuse me.

MR. SYME:

We are getting into a very important question, the question of production, and the question of per cent of production with respect to Interstate Commerce, and I think we are perfectly justified in asking that exact figures rather than approximate figures or average figures be produced here. The company has its books. Let them produce the exact records, prove those records, and that will be perfectly all right, rather than merely giving approximations and averages.

MR. HIRSCH:

I think the position of Mr. Syme is a proper one, and I am prepared to prove what he asks.

BY MR. HIRSCH:

Q. At my request did you have prepared for you in order that you could testify here today the quantity of your production and shipments during the first four months of the year of 1937,—

A. Yes, sir.

Q. —preceding the date of May 6th, 1937?

A. Yes.

MR. SIMONS:

If Your Honor please, may I at this time object to merely the offer of a statement which was prepared from the books and records? I feel that the matter is entirely too important to simply take a transcript of records for several months and pass them off for that. The issue involved here goes much deeper.

THE COURT:

Well, haven't the books been available to you at any time?

MR. SIMONS:

They have been—

MR. HIRSCH:

All these figures have been checked.

THE COURT:

Have they been checked?

MR. HIRSCH:

Yes, sir.

MR. SIMONS:

I don't know what figures he has there. We have checked some figures.

THE COURT:

Well, look at them and see whether you are satisfied they are correct.

MR. SIMONS:

Well, I don't have the books here, if Your Honor please. You see, I don't know. I didn't know what procedure Mr. Sylvan Hirsch was going to take in the presentation of his case. Unfortunately, this happens to be March 13th, and the accountants are rather busy at this time of the year.

THE COURT:

Well, it is all right. All I want to avoid is waste of time, and if you really are satisfied these figures are correct there isn't much use of dragging the books in.

MR. SIMONS:

If Your Honor please, the purpose for that is this. Here we have one, two, three, four, five months—

THE COURT:

Yes.

MR. SIMONS:

—of one year taken. I don't think on the basis of that alone Your Honor will decide the question of their position with regard to Interstate Commerce. I think you would want to have a comparison of greater magnitude than merely those few months.

THE COURT:

Well, I don't know.

MR. HIRSCH:

If Your Honor please,—

THE COURT:

You can get a pretty good idea from five months' production.

BY THE COURT:

Q. Is there anything unusual or exceptional about the five months prior to May, 1937 in the matter of the amount of production? Was it unusually large or unusually small—

A. Well, that—

Q. —during those months?

A. That is our full production, when we operate full time.

Q. That was full-time production?

A. Yes, sir.

Q. And you were operating full time?

A. Yes, sir.

THE COURT:

Well, that covers it.

MR. HIRSCH:

Well, now, if Your Honor please, at this moment I am merely trying to show general figures. When it comes time on the question of loss of profits and business I will have all the books here and give the specific details.

THE COURT:

No, that is all right, I will permit it with the understanding that the books will be available to the defendants, and that if there is any

error about these figures they can raise the question after they look at the books. I am going to accept it as prima facie correct on the statement that counsel make that they have been checked and that they were taken from the books; and in addition to that, he is the president of the company and he knows pretty well, within pretty narrow limits, what his production is, so that I will overrule the objection.

MR. SIMONS:

May we have an opportunity if we deem it necessary to recall Mr. Meyer at a later time—

THE COURT:

Yes, surely. Oh, yes.

MR. SIMONS:

—to cross examine him on this particular issue?

THE COURT:

Yes, indeed.

MR. SIMONS:

Thank you.

THE COURT:

He will be available for cross examination on this.

BY MR. HIRSCH:

Q. Now, looking at this record which I show you, and which was prepared in order that you might have the information at hand, and with leave to the defendants to check the information at any time; will you tell us what the approximate—first, tell us what your production was during the months of January, February, March, April and up to May 6th, and what your shipments were during that time.

A. Well, the January production was 93,375 dozen.

Q. And your shipments for that month?

A. The shipments was 58,626 dozen.

In February it was 92,894 dozen. The shipments were 92,497 dozens.

In March the production was 100,789, and shipments was 113,965 dozens.

In April it was 100,000; the production was 100,715, and the shipments was 129,089 dozens, pairs of stockings.

In May it was 15,026 dozen, and the shipments were 11,056.

Q. The May production and shipments were all prior to May 6th, 1937?

A. Yes, sir.

Q. Now, tell us, of the shipments to which you have just referred for the months of January, February, March, April and May of 1937, and with reference to the shipments that your concern made in previous years, what percentage of those shipments were shipped to points outside of the State of Pennsylvania.

MR. SIMONS:

If Your Honor please, that is also subject to the same objection.

MR. HIRSCH:

Yes, subject to check.

MR. SIMONS:

And may I ask this? On the examination that we have been permitted to make of the books and records we have not been able to check that particular factor because of the fact, and I think

possibly Mr. Hirsch was correct in saying we have no right to know who the customers are of the Apex, and we are not interested in that particular phase of it, as a result of which we have not been able to ascertain with any degree of definiteness the amount of interstate business done by the Apex Hosiery Company, and I think that is something that will have to be done in order to be able to check with some degree of certainty the question of the amount.

THE COURT:

Well, I don't see why they shouldn't check—

MR. HIRSCH:

I have no objection, sir, on this point for Your Honor to do what was done in our examination of the accounts and books,—

THE COURT:

Yes.

MR. HIRSCH:

—appoint some third party to make the check.

THE COURT:

It can all be done. If you want it done you have to move promptly, because we won't delay the trial for that report.

MR. SIMONS:

May we ask, if it meets with Your Honor's approval, that Mr. Bachman be appointed to check that?

THE COURT:

Oh, yes, he is the Master generally to supervise the whole thing.

MR. HIRSCH:

We won't have any trouble on that.

THE COURT:

You take it up with him.

MR. SIMONS:

You can tell him it is with your authority to proceed.

THE COURT:

Oh, yes.

MR. HIRSCH:

And with our approval.

MR. SIMONS:

Right.

BY MR. HIRSCH:

Q. Now, will you give us the approximate percentage of shipments to points outside of the State of Pennsylvania?

A. The percentage runs about eighty, eighty-five per cent.

Q. So that between eighty and eighty-five per cent of the shipments of your business is in interstate—

A. That is right.

Q. —commerce?

A. That is right.

Q. Do you have any sales offices outside of the City of Philadelphia; and if so, where?

A. New York City.

Q. And where else do you have selling representatives or offices?

A. In Chicago and in New Orleans.

Q. The New York office is maintained by the company?

A. Yes.

Q. And the Chicago and New Orleans branches are representative branches?

A. That is right.

Q. Now, with reference to unionization, will you tell us what type of shop you ran prior to May 6th, 1937? By that I mean, was it what was known as an open shop, with no union contract, or an open shop with a union contract, or a closed shop with a union contract?

A. It was an open shop.

Q. And at that time you had no contract with the union?

A. That is correct.

Q. Prior to May 6th, 1937, what, if any, conditions did you impose on your employees in so far as their continued employment by you was concerned of their membership in any union?

A. No conditions.

Q. Did you ever make it a condition of their employment that they must not join a union, and, particularly, not the defendant union?

A. No.

Q. Did you ever in any way prior to May 6th, 1937, interfere, directly or indirectly, with the free exercise by your employees of their right to join or not join a union?

A. Never interfered.

Q. Prior to May 6, 1937, had you dealt collectively with your employees, and individually?

A. Yes.

Q. On what questions?

A. On general shop conditions, hours and wages and general conditions.

Q. Now, with reference to wages—strike that question. In May of 1937, and prior to that date—

MR. HIRSCH:

If Mr. Syme will permit me to lead I think we will save some time here.

BY MR. HIRSCH:

Q. —there were two associations in Philadelphia; one was the association of manufacturers who had no contract with the union, and the other was the association of manufacturers who had a contract with the union, is that correct?

A. That is correct.

Q. You were connected with the association which did not have a contract with the union?

A. That is correct.

Q. And with reference to the beginning of 1937 how many members of your association—which I will call for purposes of letting the jury know what I mean “open shop” or “non-union shop” association, how many members did you have, how many plants?

A. Oh, about—around a hundred.

Q. And how many in Philadelphia?

MR. SYME:

Just one minute. Your Honor, may I have an offer of proof from Mr. Hirsch, what he is leading up to, I mean, with respect to these two associations? Obviously, it has no relevancy to the case unless Mr. Hirsch has in mind tying it up with something else—

MR. HIRSCH:

I certainly do.

MR. SYME:

—in the future.

MR. HIRSCH:

I have in mind, sir, tying this up directly with the conferences that were held by the union representatives with this non-union association prior to May 6th, at which time the non-union group of manufacturers agreed to sign an agreement with this union similar to the one that was signed in Reading, but not similar to the one that they demanded in Philadelphia. I think it has relevancy on the bona fides of the management in this case.

MR. SYME:

Then I definitely object to it because of the fact that no conferences were at any time held with the representatives of this union.

MR. HIRSCH:

In that case that will be a matter of defense.

MR. SYME:

I think that is very important—oh, no,—

THE COURT:

I don't think the bona fides of this management really is in issue. The question is, as I understand it, how far the union authorized or is responsible for certain damage that occurred to the plaintiff company, and I don't see how we can form any intelligent opinion about that unless we know pretty broadly the general conditions that led up to this controversy and the events of May 6th, and I think that it is proper to go into the whole situation rather broadly. It is very hard to say where to put the limit, but I will permit this question, this matter, to be gone into.

MR. SYME:

But, Your Honor,—

THE COURT:

It may have a bearing. It is only for the purpose of determining how far the union—what part the union took in the events of May 6th, and that necessarily involves a rather wide inquiry into the circumstances leading up to it.

MR. SYME:

I have no objection, Your Honor, to the broadest latitude being given to anything in which the union participated, but I think there should be a line of demarcation drawn—

THE COURT:

Yes, but—

MR. SYME:

—between Branch 1, that is a party to this suit, and the American Federation of Hosiery Workers, which is the national organization, which is not a party to this suit.

THE COURT:

Well, I am going to try to keep that line of demarcation in mind, but I can't draw it too sharply here. The jury will be able to sift it out.

MR. SYME:

Well, Your Honor, these negotiations, however, were conducted not with Branch 1, that is my objection. In other words, if the basis will be laid to show that Branch 1 had anything to do with it, any association with it, by all means, let us have it, but if there was a conference at the Bellevue-Stratford Hotel, where

there was a question of a Reading agreement, with which Branch 1 has absolutely nothing to do, and there was a general conference of manufacturers, that is outside of the orbit, outside of the purview, of the jurisdiction of Branch 1, I say that it is obviously irrelevant and won't serve any purpose being introduced here.

MR. HIRSCH:

Well, unless we can show that some representative of Branch 1 was at that meeting I am going to agree with Mr. Syme, and if my information is incorrect and there was no representative of Branch 1, I will join with him in having this stricken from the record.

MR. SYME:

The mere presence of a representative of Branch 1 doesn't mean that Branch 1 conducted the negotiations.

THE COURT:

Well, now, gentlemen, I will receive the evidence offered.

MR. HIRSCH:

What was the question, Mr. Rodebaugh?

THE COURT:

He started in to say that there were two associations, and he wanted to know how many members in Philadelphia there were of the open shop association.

THE WITNESS:

I would have to sort of approximate that,—

THE COURT:

Yes, I understand.

THE WITNESS:

—because I—

THE COURT:

Well, surely, we won't hold you to the—

THE WITNESS:

I would say there must have been about—
Philadelphia and hereby—about forty.

BY THE COURT:

Q. And how many altogether?

A. About a hundred in the association.

Q. And how many were there in the closed shop
association?

A. At that time I figure about, around thirty.

Q. In Philadelphia?

A. That is approximate, too—no, of all over.

BY MR. HIRSCH:

Q. How many in Philadelphia, if you know, ap-
proximately?

A. Well, I would say in Philadelphia about a
dozen.

THE COURT:

All right.

THE WITNESS:

A few more, maybe.

BY MR. HIRSCH:

Q. So that in numbers, the great number of shops
in Philadelphia at that time were open shops—

A. That is—

Q. —or non-union shops?

A. That is correct.

Q. Now, then, prior to May 6th did you have

any conference with union representatives at which an officer, a representative of this defendant union, the local Branch 1 of Philadelphia, was present?

A. Yes.

Q. Who was present from this union?

A. Mr. Leader.

Q. The president of the union?

A. Yes, sir.

Q. And where was that conference held?

A. The Bellevue-Stratford.

Q. And what was the general nature of the conference?

A. To negotiate an open shop agreement similar to the Reading agreement.

Q. There had been an agreement signed up in Reading with the branch up there, had there not?

A. Well, I don't know, I couldn't say whether just at that time, but it was in the making at that time.

BY THE COURT:

Q. A closed shop or open shop?

A. Open shop agreement.

BY MR. HIRSCH:

Q. And in order that the members of the jury may understand what you mean by an open shop agreement, I am correct, am I not, in saying that that is an agreement under which you recognize this union as the bargaining agency for whatever members it may have in your shop, but there is no provision in the agreement that all of the members in your shop must become a member of the union in order to work there?

A. That is correct.

MR. SYME:

Your Honor, I object to this. This is misleading the jury, obviously. Here sits Mr. Meyer, who testifies with respect to a Reading agreement. The Reading agreement is not here. There were provisions in the Reading agreement—

THE COURT:

Well, let's not talk about the Reading agreement.

MR. SYME:

—with respect to membership—

THE COURT:

Let's strike out reference to the Reading agreement.

BY THE COURT:

Q. There was a conference at the Bellevue-Stratford at which Mr. Leader was present, as I understand the testimony, at which time there was discussion about negotiating an open shop agreement with the union. Is that correct?

A. That is correct.

THE COURT:

Well, let's let it go at that.

BY MR. HIRSCH:

Q. At that time—

THE COURT:

I will strike out reference to the Reading agreement. We don't want to go too far afield.

MR. HIRSCH:

I don't desire to, sir.

THE COURT:

All right.

BY MR. HIRSCH:

Q. At that time what, if anything, was said by the representatives of the management and the mill owners who were there in reference to signing any kind of an agreement with this union?

A. Why, it was the general discussion to get together on such an agreement as an open shop agreement.

Q. Were you at that time, representing the Apex Hosiery Company, willing to sign an open shop agreement?

A. Yes.

Q. And will you fix the date, approximately? It was prior to May 6th; do you know the month?

A. I think it was the early part of April or around the end of March, somewhere around in there. I think it was the end of—the latter part of March.

Q. Now, then, did you ever receive a direct request from the defendant union to sign up a closed shop agreement?

A. I received a letter along about the middle of April in which an agreement was enclosed and signed by William Leader, the president, and requesting that he felt that I would want to sign such an agreement as the enclosed agreement, and that he would call on me with a committee to discuss it at a later date.

Q. I show you a typewritten copy of a letter which was sent to the Brooks and Anderson Hosiery

Company. If I recall correctly, you have lost the original of the letter you received from the union, to which you have just referred?

A. That is correct.

Q. And Mr. Syme has consented to my using this letter as being similar in wording and content to the letter which you received. Now, will you look at this letter and tell us whether or not that is correct?

(Copy of letter dated March 4, 1937, from William Leader, President, Full Fashioned Hosiery Workers Local 706, Branch No. 1, to the Brooks and Anderson Hosiery Company, was shown to the witness.)

A. Yes, that is correct.

THE COURT:

Let me see it.

MR. HIRSCH:

I offer this letter in evidence as Plaintiff's Exhibit 1, and will read it to the jury.

THE COURT:

What is the date of it?

BY MR. HIRSCH:

Q. Well, the date of the letter, Mr. Meyer, do you recall that?

A. About the middle of April.

THE COURT:

Oh, yes, all right.

MR. HIRSCH:

Ladies and gentlemen, this is a copy of a

Exhibit P-1—Copy of Letter

form letter sent to another manufacturer, but the content is what we are interested in and not whether it was sent to someone else. It reads as follows:

“Dear Sir:

Enclosed you will find a copy of an Agreement which we expect you to sign. I would like you to read this over very carefully feeling sure it will meet with your approval.

I will be in touch with you shortly and would like to arrange a meeting with you and a Committee in your shop where the formal signing can take place.

Awaiting an early reply, I remain

Very truly yours,”

Signed, William Leader, President, Full Fashioned Hosiery Workers, Local 706, Branch No. 1.

(A copy of Exhibit P-1 follows:

Exhibit P-1—Copy of Letter

“Full Fashioned Hosiery Workers Union
of Philadelphia and Vicinity

William Leader
President

Alex. Kellenbenz
1st Vice Pres.

Branch No. 1, A. F. of H. W. Affiliated With
American Federation of Labor as Local 706,
U. T. W. of A.

Meeting Rooms and Offices, 2530 N. Fourth
Street, Philadelphia, March 4, 1937

Mr. Brooks

Brooks & Anderson Hos Co
Jasper and Orleans Street
Philadelphia Penna

Dear Sir:

Enclosed you will find a copy of an Agreement which we expect you to sign. I would like you to read this over very carefully feeling sure it will meet with your approval.

I will be in touch with you shortly and would like to arrange a meeting with you and a Committee in your shop where the formal signing can take place.

Awaiting an early reply, I remain

Very truly yours,

(Signed) Wm. Leader,
President.

wl; mc
bstau
18049

Full Fashioned Hosiery
Workers Local 706,
Branch No. 1")

BY MR. HIRSCH:

Q. Had you prior to the receipt of this letter ever had any discussion with Mr. Leader or any other representative of the union about the terms of the agreement which they wanted you to sign?

A. No.

Q. And did you from the date this letter was received until May 6th, 1937, ever have a conference with any representative of the union with regard to the terms and conditions of the agreement which they wanted you to sign?

A. No.

BY THE COURT:

Q. Was that agreement enclosed in the letter?

A. Yes, sir.

BY MR. HIRSCH:

Q. The agreement which was enclosed, was a closed shop agreement, was it not?

A. Yes, that is correct.

Q. And between the date that that letter was received and May 6th did you ever have a telephone or direct personal request from Mr. Leader or any other representative of this union for a conference?

A. No.

Q. Now, prior to May 6th, 1937, Mr. Meyer, had any complaint ever been filed by your employees with either the State or the National Labor Board that you would not deal with them—

A. No.

Q. —or recognize them, or that—or had any complaint ever been filed by this union that you refused to deal with them, or were practicing unfair labor practices?

A. Never.

Q. And prior to May 6th, 1937 did this union ever make any request of you or file any petition with either the State or National Labor Board asking for an election in your shop?

A. No, never did.

Q. Now, with reference to the general working conditions in your plant prior to and on May 6th, 1937, are you familiar with the rates of pay that were then in existence in the City of Philadelphia and elsewhere?

A. Yes.

Q. In so far as your rates of pay were concerned how did they compare with the rates prevailing in other mills making a similar type product, on May 6th, 1937?

A. They were—

MR. SIMONS:

I object to that, if Your Honor please. I mean, I don't think he has laid the foundation as yet.

THE COURT:

Well, not only that, but I don't think the merits of the controversy, if there was a controversy between Apex and the union, are at all important except so far as they may have a bearing on the participation of the union in these acts that are charged. Now, generally speaking, I think the witness can be permitted to say that there was no controversy—if this is a fact, Mr. Meyer, was it?—that there was no controversy existing between you and the union, or between you and your employees, about anything before May 6th, with the exception of the letter which you received, and the matter of open or closed shop.

BY THE COURT:

Q. Is that a correct statement?

A. That is correct.

Q. There was no other matter in controversy at all between either you and the union or you and your employees?

A. That is right.

Q. There was a controversy about open or closed shop; at least, it was under discussion?

A. That is right.

Q. That is correct.

MR. SIMONS:

Well, if Your Honor please, I think the testimony goes a bit further than that.

THE COURT:

Well, I—

MR. SIMONS:

There had never been any discussion of anything, and the main objective, or the object of the disagreements, apparently, was an open or closed shop. Nothing else was discussed—

THE COURT:

Well, that is all right, I think it is all right the way it is, and I think that covers the ground. I don't think we need go into the merit of the wage scale.

MR. HIRSCH:

That is satisfactory. That is all I wanted to show,—

THE COURT:

Yes.

MR. HIRSCH:

—and you have shown it. You have shown it much better than I was—I mean, much simpler, exactly what I was trying to show, there was no controversy between this—

THE COURT:

That is what he said. Well, I think we might recess for ten minutes.

(Recess at 3:20 o'clock P. M.)

WILLIAM MEYER, resumed.

Direct Examination (Continued)

THE COURT:

Go ahead, gentlemen.

BY MR. HIRSCH:

Q. Mr. Meyer, directing your mind now to the date of May 6th, 1937, and to the several days immediately preceding that date, did you notice anything unusual take place prior to May 6th, 1937 outside of your premises?

A. Yes.

Q. And what was that?

A. Why, the number of people gathering there during the day.

Q. And what else did you notice?

A. Noticed that they were molesting our people coming and going from their work.

Q. Keep your voice up.

A. Molesting our people coming and going.

Q. And who was molesting them?

A. Outside people.

Q. And what were they doing or endeavoring to do?

A. Well, they were stopping them, talking to them. From reports that I got they were—

MR. SIMONS:

I object, if Your Honor please, to questions of reports.

THE COURT:

All right, don't tell the reports; what you noticed yourself.

THE WITNESS:

I noticed that there were quite a few people gathering on the outside of the plant, and they were stopping our people as they came to and from the factory.

THE COURT:

Yes.

BY MR. HIRSCH:

Q. Now, coming down to the date of May 6th, what was the first information you had that there was a large gathering of persons around your mill?

A. I was called on the telephone, I was out of town, and was told—

Q. As a result of the phone call did you come back?

A. I came back, yes.

Q. What time did you reach the mill?

A. About 2:15.

Q. And when you reached the mill at 2:15 on May 6th what was the condition of affairs outside?

A. Well, there was several thousands of people around the factory then, when I got in, about 2:15.

BY THE COURT:

Q. Was your plant working at that time?

A. No, I had given instructions to close down the plant.

Q. And your employees weren't in the plant?

A. No, with the exception of the office force, the maintenance crew, the watchmen; about sixty, all told.

BY MR. HIRSCH:

Q. And when you came into the plant what next happened? Did you have any contact with any of the union representatives, and if so, through whom?

A. Through Inspector La Rue. He came into the office and said—

Q. He was what, a police inspector?

A. Yes.

Q. And what time would you say this was, as far as you can recollect?

A. Oh, I judge that was about—after half past two, some time, maybe twenty-five minutes of three, in along there, somewhere.

Q. Meanwhile did you notice what was happening on the outside?

A. The crowds were getting larger and larger all the time.

Q. And what happened when La Rue saw you?

A. La Rue said that he was acting as messenger boy for Mr. Leader, and Mr. Leader wanted to know whether I would see him, or something to that effect.

Q. And what did you say to Mr. La Rue by way of reply?

A. I said no, that I—

Q. Keep your voice up.

A. I said no, that I couldn't see Mr. Leader, but I would be willing to see Mr. Leader at my attorney's office.

Q. And why didn't you see him at that time?

A. Because the condition around the mill looked too alarming to me to sit down to try to talk to anybody.

Q. Now, when next did you either see or hear

Mr. William Leader, the president of this union, and where?

A. I heard somebody pounding on the front door, and I was about fifteen or twenty foot away from the front door, there was a partition in between there, but it is open at the top, and heard somebody say, "I now declare a strike and a sit-down", and with that then the barrage of bricks and stones and everything come through, and forced us out of the office into the wareroom, which is right behind the office, and then it didn't take any time before the stones started coming along the windows along Fifth Street. I noticed people battering down with iron bars and clubs, smashing the windows and the frames, and the first thing I know I saw a couple of fellows being bodily tossed in, that landed right on the floor, and, of course, I saw them pretty well bruised up, and then by that time somebody informed me, said that they are coming through the office, so I went down to the office again and tried to get in there, and by that time the mob had came through the office, was breaking up the partitions and throwing typewriters, adding machines and filing cabinets and desks and everything that was in the office was upside down, and in trying to stop these people, by holding up my hand, I was hit by a stone which turned me around, and the first thing I knew I was hit by a good square size ink well on my—right in back of the neck, which, of course caused me to just sort of be faint there for a minute, until I got my senses together, but by that time the crowd was still pushing on and they forced me out through the office, through the wareroom, out into the yard.

I closed the door between the shop-yard and the factory, and, of course, that didn't amount to anything, because they broke all the glass out of the door, and then backed me up against the wall, and, of course, the language they used wasn't fit to print, what they were going to do to me, and then I said then, finally I said, "For God's sake, isn't there anybody around that can stop this condition?", and somebody says, "Go get Bill Leader".

Q. And did they get Bill Leader?

A. Yes, they got Bill Leader.

Q. How soon was it that he came in,—

A. Oh, I don't think—

Q. —from the time they said "Get Bill Leader"?

A. I don't think it was five or ten—about ten minutes, at the outside. The moment Mr. Leader came in there everything quieted down. In fact, some of them started to try to clean up around there, that is, get the rubbish out of the way, that you could at least walk around through the office.

Q. And then what happened?

A. Mr. Leader said that he was going to get a committee and he would see me shortly, and I think about fifteen or twenty minutes elapsed from that time, he came in with what was a committee, Mr. Syme was there with him at the same time, and came into my back office, and they said to me, "Now, are you ready to sign this agreement?", and I said, "No, I will not, not under this condition."

Q. Now,—

A. And I also told Mr. Leader, I said, "Didn't you get my message from La Rue?", and Mr. Leader never really answered me that question, whether he had gotten it or whether he had not, I don't know.

Q. Now, when he said, "Now, will you sign this agreement?", had the office been damaged and laid waste?

A. Yes, sir.

Q. And what about the crowd on the premises?

A. Oh, the people were just going in and out and around like droves.

Q. At that moment?

A. When Mr. Leader was in the office?

Q. Yes.

A. They were still coming in and out, yes, oh, yes..

Q. I show you a photograph and ask if this correctly depicts the scene inside the offices of your company—

THE COURT:

What is that, marked P-2?

MR. HIRSCH:

It will be, sir.

THE COURT:

All right.

BY MR. HIRSCH:

Q. —after the crowd had done its work, as you recall it.

(The witness examined the photograph.)

A. Yes, but this is just part of it.

THE COURT:

Let me see it, please.

THE WITNESS:

It was worse than that.

MR. SYME:

Your Honor, I object to the introduction of the photographs unless they have been properly proved and the proper basis has been laid for their introduction in evidence.

MR. HIRSCH:

Under the rules of evidence, Judge Kirkpatrick, if the person can say that photograph correctly depicts the condition as he saw it, he need not be the photographer who made it.

THE COURT:

Oh, I will admit the photograph on the basis of the witness's testimony.

MR. HIRSCH:

I offer that as Plaintiff's Exhibit number 2.

(A photograph was marked Exhibit P-2.)

BY MR. HIRSCH:

Q. I show you another photograph which purports to be the inside of your offices, and ask you whether or not this correctly depicts the physical condition of the office as shown in the picture as you saw it after the crowd had done its work.

(The witness examined the photograph.)

A. Yes.

MR. HIRSCH:

I offer that in evidence as Plaintiff's Exhibit number 3.

(A photograph was marked Exhibit P-3.)

BY MR. HIRSCH:

Q. I show you another photograph of the inside of the office and ask you if that correctly depicts the condition of the office at that point.

(The witness examined the photograph.)

A. Yes.

BY MR. HIRSCH:

Q. As you saw it?

A. Yes.

MR. HIRSCH:

I offer that as Plaintiff's Exhibit number 4.

(A photograph was marked Exhibit P-4.)

BY MR. HIRSCH:

Q. I show you a photograph and ask you if this is an exterior view of your factory from the Fifth Street side.

(The witness examined the photograph.)

A. Yes, that is our factory.

MR. HIRSCH:

Plaintiff's Exhibit number 5.

(A photograph was marked Exhibit P-5.)

THE COURT:

What are these things hanging out the windows?

MR. HIRSCH:

Well, we will show that through another witness. They were the blankets of the sit-down strikers.

THE COURT:

Oh.

MR. HIRSCH:

This is merely presented to show the physical property itself.

THE COURT:

Go ahead.

MR. HIRSCH:

Plaintiff's Exhibit number 5.

BY MR. HIRSCH:

Q. Are you able to form an estimate as to the number of persons that were outside your mill at the height of the occurrence, after they had gathered?

A. I would say about twelve thousand people.

THE COURT:

Do you want to show the jury those pictures now?

MR. HIRSCH:

Yes, I would like to pass them out to the jury.

(The photographs were shown to the jury.)

BY MR. HIRSCH:

Q. Did you have occasion to look outside and see the crowd that was milling about?

A. Yes, sir.

Q. I show you a photograph and ask you whether or not this shows a crowd of persons at the one corner of your mill similar to the crowd which you looked upon outside of your mill at this particular point.

(The witness examined the photograph.)

A. Yes.

BY THE COURT:

Q. Is that a photograph of the crowd you saw?

A. That is—that is of the amount of people I saw from the office, yes, at the corner of Fifth and Luzerne, yes, sir, and all the way up Fifth Street there were still more. This only shows part of it. It was that dense.

MR. HIRSCH:

Plaintiff's Exhibit 6; I offer it.

(A photograph was marked Exhibit P-6.)

BY THE COURT:

Q. Well, can you say whether that is a photograph of the crowd on the 6th of May?

A. Yes, I would, yes.

BY MR. HIRSCH:

Q. Now, this photograph shows the crowd at the corner of Fifth and Luzerne Street?

A. Yes, sir.

Q. Where else were the crowd gathered, as far as you could see?

A. Why, they were gathered all along Fifth Street, down towards the south and up to the north of Fifth Street, and along through Luzerne Street, up east of Luzerne Street, and also west—I mean of Fifth Street, and also west of Fifth Street.

Q. And when you say they were gathered on Fifth Street along the side of your building, how long is your factory on Fifth Street?

A. I don't know the exact feet.

Q. Well, I mean with reference to a city block, how long is it?

A. Oh, I would say it is over half of a city block.

Q. And the crowd was all along that length?

A. Yes, and more.

(The photograph was shown to the jury.)

BY MR. HIRSCH:

Q. I show you a photograph—strike that question. The cars run on Fifth Street, do they not?

A. Yes, sir.

Q. They don't run on Luzerne Street?

A. No.

Q. First, tell me where that photograph was taken with reference to Fifth street on Luzerne Street, on which street.

A. That was taken on Fifth Street, and just a little this side of Luzerne.

Q. Now, does that photograph represent the scene as you saw it from the office prior to the time the crowd broke in?

A. That is the density of the crowd, yes.

MR. HIRSCH:

Plaintiff's Exhibit 7.

(A photograph was marked Exhibit P-7, and shown to the jury.)

BY MR. HIRSCH:

Q. As a result of your injuries was it necessary for you to consult a doctor?

A. Yes, sir.

Q. Now, after the crowd broke into your plant what did you see the police do to stop them inside?

A. There were no police inside, the police came in after, after I was talking with Mr. Leader and Mr. Syme. When I came out from the office then, that was the first time I saw police inside the establishment.

MR. SYME:

Your Honor, I have no objection to Mr. Hirsch having testimony with respect to the police, but in the interest of conserving time I don't see what relevancy it has to our present case. It might have had some relevancy under the injunction, in order to satisfy one of the provisions of the Norris-LaGuardia Act. I can't see what relevancy it has here at all.

THE COURT:

Well, it is—

MR. HIRSCH:

Well, it is relevant for one reason only, sir, I think the jury could very well ask themselves in their own mind, if this crowd was there, what were the police doing, to test the credibility of Mr. Meyer.

THE COURT:

Well, we needn't go into it fully, but it is all

part of the occurrences of that day. We can't draw the line too sharply. I will permit it.

BY MR. HIRSCH:

Q. Did you see the police make any arrests?

A. No.

Q. And when you left the building that day what time was it?

A. Around six o'clock, shortly before six.

Q. Were there any people outside at that time?

A. Yes.

Q. How many?

A. Oh, not so many. I would say there were several thousand around at that time, but nowhere near like there had been around three and four, between three and four o'clock.

BY THE COURT:

Q. You left at 6:15?

A. No, shortly before six, about five minutes of six.

BY MR. HIRSCH:

Q. Now, after the crowd broke in on May 6th, 1937 what happened with reference to the possession of your plant? Could you thereafter exercise the same right of property and possession, and the right to go in and out and operate your business as before?

A. No.

Q. Why not?

A. I got in there the next morning about eight o'clock, to stay for a very short time. I don't think I was in the plant more than a half an hour, because the plant—they were running through the plant from top to bottom, everything was in a very

destroyed condition, the office was all destroyed, and everything was laying around, and the people were just running in and out and up through the floors, and everything, it was absolutely impossible to do anything, so I left.

Q. And after that date who was in possession of your plant?

A. The sit-downers.

Q. What was necessary to be done in order to force the sit-downers to evacuate your property?

A. We instructed the attorneys to file a bill in equity in this Court here.

Q. And as a final result of that legal action after appeal to the Circuit Court of Appeals this Court entered the decree ousting the sit-downers?

A. That is correct.

MR. HIRSCH:

May I ask Mr. Syme to agree of record that a bill in equity was filed for an injunction some time in May?

THE COURT:

Oh, we take judicial notice of that. The jury can be told that, yes.

MR. HIRSCH:

And that the Circuit Court of Appeals filed their opinion on June 21, 1937, and on June 22nd, 1937, Your Honor signed an order commanding the sit-downers to evacuate the property.

THE COURT:

What were the dates?

MR. HIRSCH:

June 21st was the opinion, and on June 22nd I submitted an order to Your Honor commanding the sit-downers to evacuate the property. May I just make those statements of record? I don't think it is necessary for me to put in evidence the order.

THE COURT:

No.

MR. SYME:

Except, Your Honor, I mean, my consent is not necessary except this, that while the story is being told, let the complete story be told, that this Court at first refused to entertain jurisdiction of the bill in equity—

MR. HIRSCH:

On a question purely of law,—

MR. SYME:

That is right.

MR. HIRSCH:

—and not on a question of fact.

MR. SYME:

That is right.

THE COURT:

Well, yes, the jury might as well understand the situation. The bill in equity was first filed in the District Court. At that time I was of the opinion that this Court had no jurisdiction because it had not been shown that there was the intent to restrain interstate commerce involved in this occurrence of this sit-down

strike. Appeal was taken from that, and the Circuit Court reversed my finding upon that matter, and held that there was evidence in the record from which it appeared that there was the intention to violate the Sherman Act and restrain interstate commerce. The case was sent back to this Court with instructions to issue the injunction, and that is what was done on the 22nd of June.

MR. SYME:

Your Honor, don't you think—I don't want to be persistent,—

THE COURT:

That is all right.

MR. SYME:

—don't you think we ought to tell the jury at the same time the matter then went to the United States Supreme Court on that matter, and the United States Supreme Court reversed—

MR. HIRSCH:

No, sir, that is an unfair statement of Mr. Syme.

MR. SYME:

Let me finish.

MR. HIRSCH:

They reversed it because it was moot.

THE COURT:

Well, gentlemen, we are going to sooner or later come to the question of what the order of the Supreme Court meant,—

MR. SYME:

That is right.

THE COURT:

—but I don't think it is necessary to go into that now with the jury. As far as we have gone I think it is all right for the jury to take my general statement. It is a fact that there was an appeal taken to the Supreme Court of the United States, and that the Supreme Court made an order in which they said substantially that the decree of the Circuit Court of Appeals was reversed, but the case was remanded to the District Court then with instructions to vacate the injunction on the ground that the cause was moot, because the strike had been settled at that time,—

MR. SYME:

That is right.

THE COURT:

—and there was no further controversy between the parties. Now, just what the effect of that was on the law and on the matter of jurisdiction has not yet been determined by this Court, but we will have to consider it, possibly, some time.

That is just a general statement so you will understand what we are talking about, when we talk about the order of this Court and the opinion of the Circuit Court of Appeals, and so on.

BY MR. HIRSCH:

Q. Now, as a result of the order of this Court on

June 22nd, 1937 the sit-downers evacuated your property on June 23rd, did they not?

A. That is correct.

Q. When did you finally sign an agreement with this union, on what date, do you recall?

A. July 29th.

Q. 1937?

A. Yes.

MR. HIRSCH:

Does Your Honor think that a copy of the agreement would help the jury in this controversy in any way?

THE COURT:

I don't think so.

MR. HIRSCH:

I think I will withhold it for the moment, and if it becomes pertinent I will offer it at a later time.

BY THE COURT:

Q. You signed an agreement with the union?

A. Yes, sir.

Q. Who executed that agreement for the union?

MR. HIRSCH:

Let me read it—

A. I think it is on there.

MR. HIRSCH:

—from the agreement.

THE COURT:

Don't read the whole thing.

MR. HIRSCH:

No, just who signed.

THE WITNESS:

There are several signatures on there.

MR. HIRSCH:

William Leader as president of the American Federation—

MR. SYME:

Branch 1.

MR. HIRSCH:

—of Hosiery Workers, Philadelphia Local Branch 1, Local 706.

THE COURT:

All right.

THE WITNESS:

Are there other signatures on there?

MR. HIRSCH:

Also, I would like the record to note that Emil Rieve signed it as president of the American Federation of Hosiery Workers, which is the national organization, and William Meyer signed it as president of the Apex Hosiery Company. It was witnessed by a number of other persons. That is not of moment.

BY MR. HIRSCH:

Q. Now, just generally speaking of this agreement which you signed on July 29th, did that provide for your immediate installation of a closed shop?

A. No.

Q. After the sit-downers evacuated the property

were you able to resume your manufacturing operations immediately?

A. No.

Q. What was the general condition of the property, without being specific at this time, because there will be other witnesses who will have a closer knowledge?

A. There was a substantial number of machines absolutely destroyed which had to be rebuilt and replaced, parts fixed up, other machinery that was standing there deteriorated and had to be gone over and put in shape, in fact, all the machinery and equipment had to be gone over, and the plant had to be put back in shape for working conditions.

Q. During the period of May 6th, 1937 until June 23rd, 1937, when the sit-downers evacuated the property, were you ever able to send in machinists to keep the machines in good order and repair?

A. No, sir.

Q. Why not?

A. I have made several requests through counsel to get that request granted, but I understand through my attorneys that they were refused by the union and they wouldn't allow any of my people in there to take care of the machinery and equipment.

Q. That was during the sit-down strike itself?

A. Yes, sir.

Q. And were you able during the period of the sit-down strike to remove any finished merchandise?

A. No, sir.

Q. And do you recall in general figures the amount of merchandise you had on hand on May 6th, 1937, both in the finished and in the greige, what is known as the greige state?

A. We had over a hundred thousand dozen of

goods, I think the correct figure is one hundred and four thousand; some odd hundred, dozen of goods—

MR. SYME:

Your Honor, of course, that is subject to the general check of the books at the time.

THE COURT:

Yes.

BY THE COURT:

Q. How much altogether?

A. One hundred and four thousand dozen.

Q. Is that finished and greige?

A. Yes.

MR. HIRSCH:

May I correct the witness?

THE COURT:

All right; tell us.

MR. HIRSCH:

One hundred and thirty thousand.

THE COURT:

All right.

THE WITNESS:

Are you talking about greige?

MR. HIRSCH:

Greige and finished.

THE WITNESS:

Oh, excuse me; one hundred and thirty thousand dozen. I was just thinking—

BY MR. HIRSCH:

Q. And as long as we are on the subject of greige,

will you explain to the members of the jury what a stocking in greige is?

A. Well, the greige is the undyed stocking. In other words, we finish the stocking up to the point of where it is dyed, and then after that, when it is dyed, it has to be finished, formed, paired, folded, and transferred and boxed, and all that work. In other words, the greige goods is the undyed merchandise ready to go into the wareroom and the dye houses.

Q. Now, between May 6th, 1937 and June 23, 1937, when the sit-downers evacuated the property, were you able to get into the plant and remove the finished merchandise or any part of it?

A. No.

Q. Did you on May 6th have orders on hand which remained unfilled?

A. Yes.

Q. Do you remember the quantity of those, approximately?

A. Oh, about two hundred and sixty thousand dozen of goods.

Q. And why were you unable to remove your finished merchandise?

A. Because they wouldn't let us in.

Q. Who is "they"?

A. The sit-downers.

Q. Do you recall after you resumed possession of the plant, you took steps to repair the machinery and other damage, did you not?

A. Yes, sir.

Q. How long did it take to complete the major repairs to your machinery and damage?

A. November, about November 1st.

MR. SIMONS:

If Your Honor please, I understand all of this is merely more or less of a summary that is being given of the situation, rather than the details that we are to take into consideration as actual facts in this case, because they are given in a very general manner.

THE COURT:

I just don't know. This particular statement, that is not so very general; they completed the major repairs by November 1st.

MR. SIMONS:

Well, that may be true as a fact there. Now, what the actual situation may have been, or the necessity for the long delay is a matter that will have to be proven.

THE COURT:

And then, of course, you can cross examine. We will take it for what it amounts to.

MR. SIMONS:

Of course, I am prompted to ask that because of the other figures that were given, that are merely figures given by him, and, as I understand, are subject to the same check as we have on the other figures.

THE COURT:

Yes.

MR. SIMONS:

Thank you.

BY MR. HIRSCH:

Q. And when were all of the repairs completed?

A. Oh, by the end of the year, right after—about the middle of January, I would say.

Q. Now, the handling of the repairs to the damaged property and machinery and equipment was directly under the supervision of Mr. Steeple, was it not your general office manager, who handled the details of the accounting?

A. The accounting, yes, sir.

Q. And he is better qualified to testify to the details than you?

A. He has the details.

Q. Correct. Now, then, coming back to the nature of your business, what raw materials are used by you in your manufacturing process?

A. Principally silk.

Q. And where does that come from?

A. Japan.

Q. And what other raw materials are used in the manufacture of a stocking?

A. Cotton.

Q. And where does that come from?

A. South.

Q. And were you able during the period of the sit-down strike to bring in raw materials necessary for the manufacturing of stockings?

A. No.

Q. Why not?

A. We couldn't get into the factory.

Q. What was the approximate market value of the one hundred and thirty-four thousand pair of stockings which you had on hand in the finished and in the greige state on May 6th, 1937?

MR. SIMONS:

If Your Honor please, I think that is a rather

broad order for the members of the jury and ourselves, who are not in the hosiery business, and don't know the kind, type, or the nature of the hosiery that he had on hand, merely to ask that as a statement that that is what it is, without anything more, without laying any foundation for it.

MR. HIRSCH:

I will redraft the question and say—

BY MR. HIRSCH:

Q. What was the average market value of all of the stockings, both in their finished and unfinished state, Mr. Meyer, on May 6th, 1937, per dozen.

MR. SIMONS:

I object to that, if Your Honor please. I don't think that damages can be proved on averages or on what Mr. Meyer thinks that they might have been worth on a general market. I think he has to be specific when it comes to a matter of that kind.

MR. HIRSCH:

When it comes to the proof of the actual damage, which we will have through other witnesses, we will give him all the specific information he desires.

MR. SIMONS:

If Your Honor please, I assumed that he was not trying to prove his damages at the present moment, but when he asks questions of that kind that goes clearly, definitely, to the item of damage, and if he is figuring that as an item of damage, unless Mr. Hirsch will say now that he

is not giving that as an item of damage, but merely as a picture of the entire situation, then I would object.

MR. HIRSCH:

For present purposes I will limit it to a picture.

THE COURT:

All right.

MR. SIMONS:

But my objection is, this will not be considered by the Court and jury as a question on any item of damage.

MR. HIRSCH:

Well, I intend to follow up similar testimony through other witnesses which will be of a specific nature.

MR. SIMONS:

Well, that is different.

MR. HIRSCH:

All right.

BY MR. HIRSCH:

Q. Mr. Meyer, what was the average market value of those one hundred and thirty-four thousand pair of stockings?

A. \$6.15 a dozen pair, for one dozen pair.

Q. And in round figures that would be, in dollars—

A. Well, that would be—

Q. —over eight hundred thousand dollars, would it not?

A. No, six times one hundred and thirty thousand dozen.

Q. Well, if my arithmetic is correct it is in excess of eight hundred thousand dollars.

BY THE COURT:

Q. Well, what happened to the finished—what happened to the goods themselves?

A. Well, some—

Q. That is, the stockings; were they destroyed or injured?

A. Well, there were some destroyed, some had to be reconditioned, others we had to take loss on due to the fact that they were out of style, the colors weren't correct, the stylings weren't correct, and we have that all itemized.

Q. I see, I understand.

A. We have that all itemized.

Q. Well, I just wanted to know.

A. Yes.

Q. There was physical damage done to the stockings?

A. Oh, yes.

Q. What kind of damage?

A. Oh, some were—a lot of them were destroyed, a lot were missing, others had to be reconditioned as to spots that would get on, and the goods were left in the wet state, wouldn't dry out.

Q. All right, I just wanted to know.

MR. HIRSCH:

Pardon me just a minute, please. If Your Honor please, if you will permit me, I think it will be easier for everyone concerned if I now confine the balance of my questions to general matters other than the financial end of this business. The thought I have in mind is after I have proven the factual situation with all the wit-

nesses, as to what occurred, I will at one time put on witnesses to present the financial picture,—

THE COURT:

Yes, I think that is all right.

MR. HIRSCH:

—rather than do it—

THE COURT:

Do you want to recall this witness?

MR. HIRSCH:

Yes, I want to have leave to recall him. I have a few questions, and then I will complete my examination.

THE COURT:

Yes, I think that is all right. That is the logical way to do it.

BY MR. HIRSCH:

Q. Now, then, following your agreement with the union dated July 29, 1937, did you have a conference with the officers of the union as to the membership which the union had among the employees in your plant?

A. Yes.

Q. When?

MR. SYME:

I object to that, Your Honor, as entirely irrelevant. It is subsequent to May 6th. The period of damage, if there was any damage, is completely over. The injunction has been granted, the union is out of the mill, there is a contract resuming normal relationships. I don't see what relevancy the number of members the

union had at that time can possibly have to this case,—

MR. HIRSCH:

If Your Honor please,—

MR. SYME:

—allowing the broadest latitude.

MR. HIRSCH:

—I think it is relevant on several grounds. First, it is relevant so that the jury may know whether the activities of the union—

THE COURT:

Well, I don't think you need argue it. I am satisfied that it is relevant. I will overrule the objection.

MR. HIRSCH:

Read the question, please.

(The question was repeated by the Reporter, as follows:

“Q. When?”)

BY MR. HIRSCH:

Q. When did you have that conference, and where?

A. Why, I had the conference down at the Labor Board office, and then I had some conferences in the attorney's office. I just would—

Q. Well, do you recall a conference in my office?

A. Yes.

Q. That was after the agreement was signed?

A. Yes.

Q. Who was present at that time representing the union?

A. Why, Mr. Leader was there. I think Mr. Syme was there.

Q. And you were there?

A. I was there.

Q. Who else from your company?

A. Mr. Struve was there. There may have been a few more there, but I just—

Q. I was there?

A. Yes, you were there.

Q. What was the subject of the conference?

A. The conference was that certain cards had been gotten out prior to the signing of this agreement.

Q. What kind of cards?

A. A regular postal card, I think it was.

Q. I mean, what was the nature of the card itself?

A. The card was a check-off proposition, and in the negotiations at that time we agreed that a new form of card should be gotten out, which they agreed to, and then we asked them to show them—show us the amount of cards that they actually had signed as to the dates, and so forth, so they brought-up cards I would say totaling about four hundred, all told, that was all the signed cards that they had at that date, after we had signed the agreement on July 29th, and in looking over those dates, to recognize the signatures of our people, whatever was found there, we found about—oh, I would say, signed prior to May 6th, I don't think there was more than a dozen there, if there was that many.

Q. And the rest were signed between May 6th and the date when this conference took place?

A. That is right.

Q. Which was early in August?

A. Which was very early in August, yes.

Q. And did the union representatives at that time indicate that those cards represented all of the members for check-off purposes?

A. That is what they told us.

Q. And following that conference in the end of the month of August were you supplied with the names of the members among your employees, the names—strike that question.

Were you supplied with the names of your employees who were members of the defendant union in order that you could check-off their dues in the payments made to them by you each week?

A. Yes.

Q. And when I speak of check-offs, so the jury can understand thoroughly, I mean that your company agreed to deduct from each union member's pay whatever the agreed upon amount was which represented his dues to the union?

A. That is right, on the signed card from the member.

BY MR. SYME:

Q. An authorization card signed by the member, authorizing you to make that deduction, isn't that right?

A. That is correct.

Q. Yes.

BY MR. HIRSCH:

Q. Yes.

A. That is right.

Q. And by the end of August did they supply you with all of the members in your shop whose names they had at that time for check-off purposes?

A. Yes.

Q. And the agreement provided that you were to check off all members, were you not?

A. Yes, that is right, all those that showed a signed card.

Q. Based on the information which they gave you did you make up your records for check-off purposes?

A. Yes.

Q. Is this the record that was prepared by your company from the names given you by the union?

(A record was shown to the witness.)

A. Yes.

BY MR. HIRSCH:

Q. Merely using that record as an—

A. Yes, that is right, that is the record.

Q. —aid to your memory, will you tell us the number of names which the union gave you as being employees in your shop who were members of the union and for whom they desired you to check off dues?

THE COURT:

As of what date?

MR. HIRSCH:

As of the end of August, 1937.

A. Including all the check-off cards that I had received up to the end of August?

BY MR. HIRSCH:

Q. Yes, sir.

A. About eight hundred.

Q. Well, look at the exact figure there. It is tabulated.

A. 848.

Q. How many employees did you have in your productive departments as of the end of August, 1937?

A. Well, with the exception of the office help I would say we had twenty-four hundred, we will say, in round figures.

Q. So that in round figures this represented one-third of your employees?

A. That is right.

Q. When you signed this agreement on July 29th, 1937 it contained the following provision:

“Whereas the union represents that it now has enrolled in its membership the majority of the employees of the company, and therefore desires to be the sole collective bargaining agency for all of the employees of the company”

Did you at that time accept that representation, the majority of your employees—

A. Yes.

Q. —as being union members?

A. Yes, I was told that there was a majority there.

Q. By whom were you told that?

A. By Mr. Leader.

Q. How many members did he say he had in your plant?

A. Two thousand.

Q. Excuse me, please. During the period of the sit-down strike where was your office maintained?

A. Fourth and Green.

Q. Why?

A. I couldn't get into my own office, so I had to

maintain an office, because I had to keep on functioning, I had pay-rolls to make up, I had Social Security, and all the regular office work, and be in a position to use telephones and talk to my customers and the trade in general. I had to maintain an office.

Q. I think I did ask you that during the period of the sit-down strike you were unable to remove the finished merchandise?

A. Yes, you did ask me.

Q. And you stated the reason?

A. Because of the sit-downers; couldn't get into the plant.

MR. HIRSCH:

That is all at the present time, and I ask leave to recall Mr. Meyer for further questioning.

THE COURT:

On the financial end of the thing?

MR. HIRSCH:

Correct, sir.

THE COURT:

You have covered the ground now as to the occurrences?

MR. HIRSCH:

That is right.

THE COURT:

All right.

MR. HIRSCH:

Just one further question:

BY MR. HIRSCH:

Q. Will you tell us generally, although other witnesses will give it in more detail, the damage done to the machinery and equipment?

THE COURT:

Well, why not—

MR. HIRSCH:

All right.

THE COURT:

—leave that—

MR. HIRSCH:

I will withdraw that.

THE COURT:

Yes, what is the use?

MR. SYME:

Your Honor, for the purposes of the record I now move that all of the testimony with respect to the breaking in be stricken from the record because of the fact that it has not been properly identified in any way with the union.

THE COURT:

Well, the motion is denied at the present time.

MR. SYME:

All right.

THE COURT:

It may be renewed if there is a failure to identify the acts as those for which the union might be responsible.

MR. SYME:

Will you agree that this is the agreement by which the strike was settled?

R. HIRSCH:

It is a copy of the agreement.

MR. SYME:

Yes.

Cross Examination

BY MR. SYME:

Q. Mr. Meyer, let's start from the end with respect to this.

A. From the end?

Q. Yes. You recollect—this is a copy of the agreement, agreed to by counsel, by which the strike was settled. Paragraph number 4 of this agreement reads:

"The union agrees to deliver to the company a written order from employees of the mill who are members of the union authorizing the company to deduct from their wages and pay over to the union the specific amount or percentage which the union will require to be so deducted by the company and paid to it. Upon receipt of said authorization the company will deduct from the wages due each pay day to such union employee the amount payable by such employee to the union, and will pay over to the union or its designee such amounts on each pay day, . . . Provided, however, that the company shall not be obliged to recognize as valid any authorization card from its employees to deduct from their wages as aforesaid unless said authorization card is in the form hereto attached and is dated at least one week subsequent to the signing of the agreement."

Now, you recollect, Mr. Meyer, isn't it a matter of fact that the union was ready to give you fifteen hundred authorization blanks at the time that the negotiations were conducted? Isn't that right?

A. No, that is not correct.

Q. Well, how many were there?

A. All I saw is what I told you.

Q. Oh, now, now, now at the conferences that were conducted by Mr. McGrady as Assistant Secretary of Labor at the time, at the conferences before the National Labor Relations Board, there sat Mr. Leader, isn't that so, and the others, and they had a stack of certainly over a thousand, ranging from a thousand to fifteen hundred authorization cards.

A. I don't know nothing about that.

Q. Oh, you don't?

A. No, sir.

Q. And do you remember why this proviso was inserted?

A. Why?

Q. Yes.

A. Yes, because we wanted new cards, because the general feeling had been that those cards that had been obtained, even that small amount which you got, was under coercion, threats and everything else, and we wanted to clear that—

Q. I see.

A. That picture. Therefore, we wanted new cards, and that is the reason why that was put in there.

Q. Now, Mr. Meyer, you now have a closed shop contract with the union, isn't that right?

A. Yes.

Q. At the time that you entered into this closed

shop contract with the union the union represented the majority of the people isn't that right?

A. This last closed shop?

Q. That is right.

A. Yes, that is correct.

Q. That is right. This contract also had a provision that after the expiration of a period of nine months, if I recollect,—

A. That is correct.

Q. —that then there would be a conference with Mr. McGrady, at which time if the union could demonstrate that it represented a substantial majority of the people—that is the exact term, isn't it?—that you would then enter into a closed shop contract with the union, isn't that right?

A. That is correct.

Q. At that conference with Mr. McGrady the union did demonstrate that it represented a substantial majority, isn't that right?

A. March 1st?

Q. That is right.

A. Signed cards?

Q. That is right.

A. Right.

Q. That is right. Do you know how it got that substantial majority after all in a period of nine months? You say that they represented so few at the beginning, over a period of years the union had been unsuccessful in getting your plant, and in nine months they got a substantial majority of twenty-five hundred people.

MR. HIRSCH:

I object to that only for the reason that Mr. Syme objected to my questioning about the terms of the agreement or the phases or the de-

tails of the agreement, and I don't think this is any more relevant than the phases which he objected to.

MR. SYME:

Your Honor, if I objected to phases of the agreement I withdraw the objection.

THE COURT:

Well, it is all right.

MR. HIRSCH:

All right, let the witness tell them how they got the majority.

MR. SYME:

That is right.

THE COURT:

Oh, no, now, don't.

THE WITNESS:

No.

THE COURT:

Let's not go into it.

MR. SYME:

Your Honor, I don't intend to enter into any matter subsequent to the strike. Mr. Hirsch has introduced it, and I think it becomes a perfectly proper matter for cross-examination.

THE COURT:

Well, that is the only reason I am going into it. Now, the only possible, the only possible bearing any of it can have is on how far the union was responsible for the acts of the 6th of May, and it is of some interest to know how many members they had at that time, and that is all the relevancy it has.

MR. SYME:

If Mr. Hirsch will withdraw the questions with respect to the number of members it had subsequent to the period of the strike—

THE COURT:

Yes, I really think—

MR. SYME:

I am perfectly willing—

THE COURT:

—that is immaterial, myself.

MR. SYME:

—to stop this line of cross-examination. I don't want to go into any matter subsequent to the strike. We are maintaining harmonious relationships. There is no reason for going into it now.

MR. HIRSCH:

I will not withdraw my questions. I will withdraw my objection. If Mr. Syme wants the answer he may have it, with the permission of Your Honor.

THE COURT:

Well, now,—

MR. SYME:

If Your Honor will strike the testimony I am willing to stop this line of examination.

THE COURT:

Well, gentlemen, I won't strike the testimony and we will stop the line of examination.

MR. SYME:

Well, Your Honor, I think—

THE COURT:

All right, now, you go ahead,—

MR. SYME:

All right.

THE COURT:

—whatever you want to do about it, but that is what I am going to do. I will say to the jury that the question of how many members the union had at any time after May 6th is only relevant as bearing on how many there may have been at the 6th of May, and that fact is only relevant as bearing on the question of whether the union was or was not responsible for the various acts of violence and damage that have been testified to. Now, with that understanding we won't take any more testimony on the question of the membership of the union at a period subsequent to the 6th of May.

MR. SYME:

With that explanation, Your Honor, I am quite willing to stop—

THE COURT:

Yes, all right.

MR. SYME:

—the line of examination.

BY MR. SYME:

Q. Mr. Meyer, when you say that you had two offices or two branches in Chicago and New Orleans, what you mean is sales offices, isn't that right?

A. Offices.

Q. Yes, you don't mean factories?

A. No.

Q. You have only one factory, the factory in Philadelphia?

A. Sales representation, that is right.

Q. Yes. Now, prior to May 6th, or prior to the time that you entered into this contract with the union you have testified to the fact that you maintained an open shop?

A. Correct.

Q. Yes, you had no union members in the place, isn't that right, Mr. Meyer?

A. I didn't—I don't know.

Q. Now,—

A. All I know—

Q. —what you actually mean—

A. —is when I saw those seven cards that you produced.

Q. What you actually mean is that you had a closed shop to the union,—

A. Oh, no.

Q. —is that right?

A. Oh, no.

Q. Well, you never negotiated with the union representatives, did you, prior to May 6th?

A. Positively, as the association of which we were members of, we were trying to find a happy medium to get into a contract and an open shop contract.

Q. The Apex Hosiery never negotiated with Branch 1, isn't that right?

A. Along with—yes, it did—along with the rest of the manufacturers.

Q. The Apex might have as a member of an association—

A. Right.

Q. —met with the American Federation of Ho-

siery Workers, of which Branch 1 is a member, but Apex never met with Branch 1, isn't that right?

MR. HIRSCH:

You mean alone?

MR. SYME:

That is right, that is right.

A. No, no.

BY MR. SYME:

Q. That is right, and, furthermore, Apex instructed its counsel, didn't it, that Apex refused to meet with Branch 1.

A. Only on a question of closed shop.

Q. That is right.

A. That is all.

BY THE COURT:

Q. You mean—what do you mean by "only on the question"? You mean except for the question?

A. Yes, closed shop, I understood through counsel that Branch number 1 wanted closed shop only, and I refused to go along with them.

Q. I see.

BY MR. SYME:

Q. Now, you have testified—

MR. SYME:

Oh, I am sorry, Your Honor.

THE COURT:

No, I am through.

MR. HIRSCH:

Pardon me just a moment. I think he was

asked whether they refused to meet. There was no refusal to meet before May 6th.

THE COURT:

He says he wouldn't meet them, he says he understood the only question was closed shop,—

MR. SYME:

That is right.

THE COURT:

—and he wouldn't meet them on that.

THE WITNESS:

No.

MR. HIRSCH:

No, he doesn't mean meet; he means agree.

THE COURT:

The witness may not make it clear—

BY MR. HIRSCH:

Q. Clear that up, will you?

A. We tried to meet from the end of March on, to get some kind of—

BY THE COURT:

Q. That is, you tried to meet with No. 1?

A. With the National Association, of which they are members of.

Q. On the question of closed shop?

A. On the question of open shop, we wanted to meet on.

Q. Yes; well, it is the same thing.

BY MR. SYME:

Q. Mr. Meyer, you have testified to the fact that you never had any labor difficulties prior to May 6th, 1937,—

A. Well, how—

Q. —isn't that right?

A. How far back?

THE COURT:

No, he didn't say that, Mr. Syme. He said prior to May 6th, for some period back of May 6th, there was no controversy existing between him and his employees about anything except the matter of the closed shop, and that he testified fully about.

BY MR. SYME:

Q. Did you have any difficulties with the union prior to May 6th? What I am trying to bring to your attention, isn't it a matter of fact, Mr. Meyer, that on May 6th, 1937 there was a permanent injunction in the Philadelphia courts against Branch 1 of the American Federation of Hosiery Workers, handed down by Judge Finletter, which virtually forbade the union to come near your place or talk to any of your people, or picket peaceably, or do anything else? Isn't that a matter of fact?

A. There was one—

Q. Yes.

A. —in that time.

Q. That is right, and that was existing on May 6th, 1937?

A. I don't know what the legal end of that is.

Q. At least, on the books?

A. On the books—

MR. HIRSCH:

That was an injunction that had been handed down some six years previously, at a time when

there were some disturbances up there, and when the company went into the State courts.

MR. SYME:

That is right.

BY MR. SYME:

Q. And that was still on the books on May 6th, 1937, isn't that right?

A. If you say so—

Q. Yes.

A. —I guess it was.

Q. Mr. Meyer, you say that you had collective bargaining with your employees. You don't mean that you—that at any time you dealt through what we call a legitimate labor organization, either an affiliate of the American Federation of Labor or an affiliate of the C. I. O., did you?

A. Is that the only way you can get collective bargaining?

Q. Well, I am trying to define your understanding of it.

A. Well, I will just try to clarify myself.

Q. Well, I mean, you never—I am not asking you whether you had collective bargaining or not, but you never bargained with a union that was either affiliated—prior to May 6th—either affiliated with the A. F. of L. or the C. I. O.?

A. That is correct.

Q. That is right. It was what you would call a plant organization, isn't that true?

A. A what?

Q. A plant—by "plant" I mean it was part of the Apex plant.

A. Why, yes, they—

Q. That is right, they had nothing to do with any outside organization?

A. With any outside organization, as far as I know.

Q. I am not trying to be sarcastic.

A. Certainly, I am just trying to get it, too.

Q. That is right. Now, this organization was organized when, Mr. Meyer?

A. What organization?

Q. This plant organization or this group that you dealt with.

A. Oh, I couldn't say any definite time. As far as I know it was functioning right along and had been functioning for years.

Q. Well, let me refresh your memory. During the hearings on the injunction you testified to the fact that this organization was founded during the period of the N. R. A. Remember that?

A. Well, I mean years, now,—

Q. That is right, during the N. R. A., when Section 7(a) was incorporated in the National Industrial Recovery Act you then—or, not “you then”, I don't want to say anything that would—at that time this plant organization was founded, is that right?

A. I presume that is the time.

Q. Yes. How many times did you meet with Bill Leader prior to May 6th?

A. Once, down at the Bellevue.

Q. You only met Bill Leader once prior to the Bellevue—prior to the meeting—or, prior to May 6th?

A. 6th.

Q. You met him once in the Bellevue Stratford?

A. That is right.

Q. And notwithstanding the fact that you met Bill Leader only once prior to May 6th, yet from behind a closed door you recognized Bill Leader's voice as saying, "I declare a strike", is that right?

A. And a sit-down.

Q. And a sit-down?

A. Yes.

Q. You recognized his voice?

A. I did.

Q. You heard him only once;—

A. That is right.

Q. —at an evening conference, quietly, and yet you recognized from behind this closed door what his statement was?

A. Yes.

Q. Is that right?

A. Yes.

Q. Incidentally, Mr. Meyer, you never had any agreement with this plant organization with respect to wages, hours, working conditions, or arbitration, or anything else, did you?

A. Yes, we had arrangements there, we had a regular shop committee. They elected their own people, sent their representatives down to the office. Of course, I didn't—

Q. Suppose you didn't agree with them—

A. I mean, the main end of it—

Q. I am sorry.

A. —was taken care of by the general manager, of course.

Q. Suppose you didn't agree with them on a certain issue; what happened?

A. We always had satisfaction.

Q. Well, suppose you didn't agree. Suppose the employees wanted something—

A. Well, why suppose something we didn't have?

Q. Mr. Meyer, suppose the employees asked you for something and you didn't want to give it to them. What happened? You just said so, isn't that right?

A. We would meet that condition. We always worked the proposition out satisfactorily and to the satisfaction of the people in the plant.

Q. About what percentage of the company's hosiery would you say you manufacture?

MR. HIRSCH:

Of the what?

BY MR. SYME:

Q. About what percentage of the country's hosiery would you say you manufacture?

MR. HIRSCH:

That is objected to as being irrelevant.

MR. SYME:

Oh, the man has testified to the fact—

THE COURT:

Don't argue, it is all right. It is very important.

MR. HIRSCH:

All right.

THE WITNESS:

What percentage?

BY MR. SYME:

Q. Of the country's hosiery would you say you manufacture.

A. Well, the production was running about thirty-nine million, I would say, in approximate figures.

THE COURT:

Per what?

A. Per year, on ladies full fashioned merchandise, and we figure our production a million, two to a million, two and a half; I mean, one million, two hundred and fifty thousand.

Q. Dollars?

A. No; dozen pairs.

BY MR. SYME:

Q. Can I refresh your memory? In the previous hearing you testified to the fact that you manufactured three per cent of the country's hosiery. Do you remember that?

MR. HIRSCH:

And if you will figure it up you will find that is just the same.

THE COURT:

That is just about the same.

MR. SYME:

That is splendid.

BY MR. SYME:

Q. That is right, isn't it?

A. On that we agree.

Q. All right. Mr. Meyer, when you looked at that crowd you didn't know who was in the crowd or you didn't recognize anybody that you knew in the crowd, did you?

A. You mean, now, what, those that were in the factory?

Q. No, not in the factory; on the outside.

A. No, I wouldn't say that.

Q. Yes, you did know somebody in the crowd?

A. No, I say not.

Q. Yes.

A. No, I didn't, no, right at that moment, from looking outside,—

Q. Yes.

A. —I didn't know who was just there.

Q. When you say that the only issue between you and the union was the closed shop you know that there were other issues, one of which was the double job, isn't that right, question of wages, I mean, the elimination of the double job also involved the question of wages for the helpers, isn't that so?

A. There was a question on that.

Q. That is right, and that was one of the things that was remedied in the agreement between you and the union; or, at least, from the union's angle it was remedied, isn't that right? You eliminated the double job?

A. Yes.

Q. Through a gradual process, but you eliminated the double job?

A. Yes, we agreed on that before any—

Q. That is right.

A. I mean, before this agreement.

Q. No, but I mean, that was one of the things in the agreement?

A. Well, I just want to get it clear, the reason I didn't mention it, because that was one of the things to be either frozen or gradually eliminated.

Q. Yes.

A. I mean, there was no contest on that part—

Q. I mean, one—

A. —prior to the signing of the agreement,—

Q. No,—

A. —as far as we were concerned,—

Q. —but it was one of the things incorporated in the agreement—

A. That was understood.

Q. —at the demand of the union?

A. But the main thing was the closed shop.

Q. That is right, but it was, the thing that you, above all, you didn't want to grant was the closed shop?

A. That is right.

Q. That is right.

MR. SYME:

That is all, Mr. Meyer.

Redirect Examination

BY MR. HIRSCH:

Q. As a matter of fact, it is a fact that prior to May 6th and during the period of the sit-down the only thing that you refused to grant was the closed shop, and that you were willing to grant every other condition?

A. That is right.

THE COURT:

All right.

MR. HIRSCH:

And just one other—well, that is all.

THE COURT:

I think we won't call any more witnesses. We

will adjourn until ten o'clock tomorrow morning.

You remember the caution I gave you about talking about the case.

(Adjourned until Tuesday, March 14, 1939,
at ten o'clock A. M.)

Philadelphia, Pa., March 14, 1939

Second Day

THE COURT:

Very well, gentlemen.

KATHRYN BRADLEY, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Now, Miss Bradley, just sit back and relax and keep your voice up so that Judge Kirkpatrick on your right and the members of the jury on your left can all hear you. You are an employee of the Apex Hosiery Company?

A. That is right.

Q. For how many years?

A. Sixteen years.

Q. And what is your position?

A. General office work.

Q. Your office is located in the northwest corner of the building at Fifth and Luzerne Street, is it not?

A. That is right.

Q. The main entrance to the building is near your office?

A. Is right at the office.

Q. Just at your office?

A. That is right.

Q. And were you working steadily on and just prior to May 6, 1937?

A. Yes I was.

Q. At the factory every day?

A. That is right.

Q. Prior to May 6th, 1937 do you recall what if anything unusual was occurring outside the premises, as far as you could observe?

A. Yes, there was crowds of people around the premises of the mill.

Q. And what were they doing there as far as you could see, observe?

A. Well, they were stopping the mill workers and talking to them.

Q. About what?

A. About joining the union.

MR. SYME:

I object to that, Your Honor. As far as she could see or hear it is perfectly all right.

THE COURT:

Yes, only what you actually heard yourself.

BY THE COURT:

Q. Did you hear them talk?

A. Yes, I actually heard it.

THE COURT:

All right.

BY THE COURT:

Q. You heard them soliciting membership in this union?

A. I certainly did.

Q. Now, coming down to May 6th, 1937, were you in the office that day?

A. Yes, I was.

Q. And were you there at the time that this crowd of persons which Mr. Meyer described yesterday as gathering outside the premises did in fact gather?

A. Yes, I was.

Q. Tell us what you observed in so far as the gathering of the crowd outside was concerned prior to the time that anything unusual happened.

MR. SIMONS:

If Your Honor please, just for the purposes of the record may I at this time enter my objection to that, because there is no identification? I mean, I am doing it at the present time so that the record will be in shape to ask that it be stricken later on, if there is not a proper identification.

THE COURT:

All right.

A. It was right before noon, I saw crowds gathering around the mill. The crowds kept getting thicker all the time.

BY MR. HIRSCH:

Q. And where did they gather?

A. They gathered right outside the mill, all over the pavements, and all the streets were one solid mass.

Q. And what streets were they gathered on?

A. They were gathered on Luzerne Street and on Fifth Street. That is all I could see from looking out the front door.

Q. Now, in addition to the crowds what, if anything else, was outside which was not there on previous days, that you recall?

A. Sound truck.

Q. And did you notice any name on the sound truck?

A. C. I. O.

Q. And what was the sound truck broadcasting, if it was broadcasting, do you recall?

A. Well, not just then, not at that time, before noon.

BY THE COURT:

Q. You mean it wasn't there before noon?

A. It was there before noon but I didn't pay any attention. It wasn't until after noon—

Q. All right.

A. —that I heard what they were saying.

Q. What did they say?

A. I heard a voice announce a strike at the Apex Hosiery Company.

MR. SIMONS:

I object to that, if Your Honor please; or would you just consider my objection going down the whole line of her testimony?

MR. HIRSCH:

I will lay the groundwork—

MR. SIMONS:

There is no identification.

THE COURT:

Oh, yes,—

MR. HIRSCH:

I will lay the groundwork for the witness—

THE COURT:

—I will permit you to ask to strike out anything you want later on, if there is no tie-up with the defendants here.

BY MR. HIRSCH:

Q. Before you talk about the voice, do you recognize William Leader,—

A. Yes, I do.

Q. —the gentleman sitting here at this table (indicating)?

A. Yes.

Q. Did you see him anywhere around the Apex premises—

A. Yes, I did.

Q. —on May 6th, 1937?

A. Yes, I did.

Q. Where?

A. He was standing on the front step.

Q. The front step leading to where?

A. Leading into the office.

Q. That is, the front step outside the main door—

A. Right outside.

Q. —to your office?

A. Fifth Street.

Q. Did you see him on the step?

A. Yes, I did.

BY THE COURT:

Q. What time?

A. I imagine it was between one and two o'clock. I can't say exactly.

BY MR. HIRSCH:

Q. And what enabled you to see him from inside the office, outside to the step?

A. Well, I was relieving the telephone operator at the time, and there was a watchman at the front door, and as the girls were coming, the office employees were coming back, I was identifying them for the watchman to leave them in, and at that time he said there was someone outside that wanted to see Mr. Struve, and I went to the door and looked out, and it was Mr. Leader.

Q. Where was he at that moment?

A. On the top step.

Q. Yes.

A. And he had a crowd in back of him.

Q. How many?

A. I couldn't say how many. There was about, possibly, six or eight. I recognized one person.

Q. You mean persons who were—

A. Besides Mr.—

Q. —with him?

A. Besides Mr. Leader.

Q. Who was the person you recognized?

A. William Ettér.

Q. And William Ettér was one of your employees?

A. That is right.

Q. And this group of six persons were with him on the steps?

A. Yes.

Q. And what, if anything, did you hear Mr. Leader say—

A. He asked—

Q. —or see him do?

A. He asked—well, he rapped on the door, and when the watchman went to the door he asked to be allowed in, that he wanted to see Mr. Struve, so Mr. Struve wasn't there just now, so he called, "Send back for Mr. Meyer", and Mr. Meyer said that the doors wouldn't be opened with a mob like that on the outside.

Q. Then what happened?

A. Well, then, it was shortly after that, I ran into Mr. Struve's office, where I had a complete view of the Luzerne Street side.

Q. Yes.

A. And they were taking a number of their younger boys and they were forming them into a picket line, and I saw someone scale up the wall and hang a sign on the wall of the building, and also put a sign around one of the youngsters' necks.

Q. Do you recall what was on the sign?

A. I couldn't see that, I just saw them put the sign around the youngster's neck. A few minutes later I heard a voice announce a strike at the Apex.

Q. Did you recognize the voice?

A. I didn't at that time, because I never heard the voice before.

Q. Have you heard the voice since?

A. Yes, I have.

Q. And based on hearing that voice since that time are you now able to identify the voice which you heard on that occasion?

A. Yes, I was.

Q. Whose voice was it?

A. Mr. Leader.

Q. And what did he say?

A. He said, "I announce a strike at the Apex Hosiery Company, and you can rest assured before the day is out there will be a sit-down strike, and it will not reopen until it opens as a closed shop".

Q. And then what happened?

A. Well, then they all started applauding and clapping hands. It wasn't long after that when the bricks started to come through the window.

Q. Where were you when the bricks started to come through the window?

A. Sitting at my desk.

Q. When you speak of bricks, how many came through the window, and what window?

A. I couldn't say how many. The first one I noticed coming through hit the desk right in front of me, right at the office.

Q. And then what happened?

A. Well, then we all ran out into the wareroom.

Q. What happened after that?

A. More bricks came through, and the first thing I knew they picked somebody up bodily and threw them through the window.

Q. And what happened after that?

A. Well, then we ran upstairs for a while, and we were quite panicky.

Q. What was going on outside?

A. A lot of yelling and screaming.

Q. Did you at that time have an opportunity to look outside?

A. I didn't at that time, no.

Q. And what if anything further happened in addition to the bricks coming through the window?

A. Well, I saw this one fellow thrown through the window.

Q. Yes.

A. And they were using bars, I could see that.

Q. What were they doing with the bars?

A. Breaking through the windows.

Q. And what windows are you speaking of as being broken by bars?

A. Then, we were out in the wareroom at that time.

Q. They were the windows on what floor?

A. They were on the first floor, in the ware-room.

Q. And they could be reached from the street with bars?

A. Very easily.

Q. Now, what happened to the crowd after that? What did they do?

A. Well, the dye house—the dye house boss came out in the wareroom then and said that he was going to get some of the girls out, and I just happened to be one of them standing there, and he took me out the back.

Q. Well, you haven't told us anything about the crowd outside. What did they do?

A. Well, they threw the bricks through the window and used the pipes, and did screaming and yelling.

Q. Did they come upon the premises while you were there?

A. These few people that were thrown through the window, that was all.

Q. And then what did you do, when that happened? You said you went upstairs?

A. We ran back and forth several times, and in

the meantime Mr. Boyd took us out through the back.

Q. Were you on the premises when the mob broke in?

A. I was in the back. I didn't actually see them break in.

Q. But were you there when they came on the premises?

A. Yes, I was.

Q. Did you see them after they were on the premises, that is what I mean?

A. Yes.

Q. And how many persons did you see?

A. I couldn't judge, it was thousands, the streets and the pavements was just one solid mass of people.

Q. And where did you go?

A. I ran out the back through the dye house.

Q. And when you got outside what did you observe?

A. Saw the whole back of the fence lined up with police officers.

Q. Now, when you speak of the back of the building you are speaking of Rising Sun Avenue?

A. That is right.

Q. And it is in the back of the building that the company has a yard?

A. That is right.

Q. That yard is enclosed with a tall wire fence?

A. That is right.

Q. And it was there you saw the police officers lined up?

A. That is right.

Q. How many of them?

A. I couldn't say. There was—they were lined up the entire fence.

Q. What were they doing?

A. Staving there, doing nothing, with their hands in their pocket, some of them with their hands in back of them.

Q. Was this at the same time that the crowd, the mob, was on the property?

A. Yes, it was.

Q. What, if anything, did you do or say?

A. When I come outside I was quite hysterical, and I saw all the police officers standing there doing absolutely nothing, and I yelled, "For God's sake, do something before someone gets killed", and they just simply ignored me by turning their back.

Q. Did you see any police officers inside the premises preventing the mob from going through at the time you were on the premises?

A. No, I didn't.

Q. Did you see any police officers that day do anything to prevent the crowd from throwing bricks through the windows or breaking the windows with pipes?

A. No, I didn't.

MR. SIMONS:

If Your Honor please, may I at this time interpose an objection to this? Certainly anything done or not done by the police does not bind the defendants in this case in any manner, or any conversations had, which are pure hearsay.

THE COURT:

Well, yes, there is no particular reason to emphasize it.

MR. SIMONS:

I can understand—

THE COURT:

The whole story has to be told.

MR. SIMONS:

Yes, well, that is why I didn't object before,—

THE COURT:

Yes.

MR. SIMONS:

—to let the whole story come in, but it certainly is objectionable from the point of view of the liability of the defendants in this case.

THE COURT:

It may not have any bearing on the liability of the defendants, but you can't tell the story without telling what the witnesses saw and heard, what happened.

MR. HIRSCH:

Cross examine.

MR. SIMONS:

No questions.

MR. HIRSCH:

Thank you. Mildred Elsner.

MILDRED ELSNER, having been duly sworn, was examined and testified as follows:

MR. SIMONS:

Your Honor, may I at this time move to strike out all the testimony given by the previous witness on the ground there has been no connection with any of the defendants in this case?

THE COURT:

Motion denied.

Direct Examination

BY MR. HIRSCH:

Q. Mildred Elsner, you are an employee of the Apex Hosiery Company?

A. I am.

Q. For how many years?

A. Two years and about four months.

Q. You were employed on May 6th, 1937?

A. I was.

Q. In what capacity?

A. General office work.

Q. Is your recollection of what happened on the outside of the property prior to May 6th similar to that testified to by Miss Bradley, ahead of you?

A. It is.

Q. Now, coming down to May 6th, where were you at the time the mob was outside?

A. I was inside at my desk.

Q. Now, before that, I beg your pardon, what, if anything, happened to you particularly prior to May 6th?

A. A few days before May 6th I came out of the office prepared to go home. My gentleman friend was waiting for me, and saw that a crowd of fellows gathered around me, and asked me to kindly sign the union. I said I had nothing to do with this argument, I belonged to the office force, therefore, that didn't include me whatsoever.

They said, "That doesn't make any difference, we want one and everyone to sign in the Apex Hosiery Company."

He came up to me and said, "You better come this way", that is, my gentleman friend who was there. He got me out of the group of fellows and I went home:

Two days following that the very same thing happened, not by the same group of fellows.

MR. SYME:

Your Honor, I object to this line of testimony with respect to anything that happened prior to May 6th. It is immaterial. It is irrelevant. It has absolutely nothing to do with the issue. That is number one.

Number two, these people are not identified. We don't know who may have done that.

MR. HIRSCH:

It has been admitted, if Your Honor please, that there is only one union in this trade—

MR. SYME:

Oh,—

MR. HIRSCH:

—and the identification of the person by name I don't think is—

THE COURT:

I will overrule the objection.

MR. HIRSCH:

—important.

BY MR. HIRSCH:

Q. Go ahead.

A. Two days after that the very same thing happened, only it was a larger group, comprised of

boys and girls, who gathered around me and told me if I knew what was good for me and if I valued my safety I should sign the cards that they had.

I insisted I had nothing to do whatsoever with their union or with the argument that was going on on the outside, and I did leave them.

Q. Now, coming down to May 6th, you were on the property when the crowd was outside?

A. I was.

Q. In the office?

A. I was.

Q. Did you observe the size of the crowd outside?

A. I only saw them accumulating, I didn't notice how large the crowd was when they finally got there, because I didn't think it was safe to go to the windows.

Q. What happened while you were on the property and while the crowd was outside?

A. I was sitting at my desk and all of a sudden a brick hit the window, and I decided to run out into the wareroom, where the rest of the office was running to.

Q. What else did you see going on on the outside?

A. I saw poles being hit—I saw people taking poles and hitting them at the window and breaking the windows. That is all I saw when I was on the main floor.

Q. What happened to the crowd? What did they do?

A. I didn't see that because I was running for my own safety. We were told to go up on the second floor where it would be safer for us.

Q. And what did you do when you got up there?

A. When I got up to the sixth floor the crowd told us up there that the bricks were hitting those windows.

Q. The sixth floor?

A. The second floor, so we went from the second floor to the third floor, and while we were up on the third floor a group of men on the main floor hollered up the stairway and told us to run for our lives, that they had gotten into the building. We ran up to the sixth floor. When I got up to the sixth floor there were a group of girls up there who had gathered together to pray. We were all terribly nervous. We stayed up on the sixth floor, and I decided I would walk over to the windows to see if I could see anything of the crowd, and as I got to the windows bricks hit the windows on the sixth floor. I turned away from the windows and decided to go down the stairway when a group of men came up the stairs. The first man in the group was a man holding a wrench. He took it up, lifted it as if to hit our heads, and said, "You better go downstairs if you know what is good for you."

We went downstairs.

Q. Had the crowd from the outside entered on the premises at that time?

A. Yes, they had.

Q. And then when you went downstairs what did you see?

A. When I got downstairs there was quite a group gathered around there holding the white union cards. They said, "You will have to sign this or you will never get out of this building."

There were quite a group of us that come downstairs, and I got lost, I got away from the rest of them. I didn't get to sign the card. I told them I

wouldn't, but those that they could get a hold of, they did, and made them sign. I got away from the rest of the group and tried to make my way back to the office. I was naturally getting mingled in with a great deal of people coming in from the outside.

Q. Would you recognize the card if you saw it now that was—

A. I would not.

Q. You would not?

A. It wasn't put down in front of my face. I saw it being placed in front of other people.

Q. And were there a number of persons with these cards, as far as you recollect?

A. Yes, a great deal of people with it, in fact everybody I saw as I made my way back to the office, had a card.

Q. What was the color of the card, do you recall?

A. I believe it was white.

Q. Now, what happened to you when you got downstairs?

A. I made my way back to the office, thinking of my records that I had left on my desk.

Q. Yes.

A. And on the way back to the office there was such a terrible mob to go through, and I was so nervous and upset. Half way back to the office I had something hit me in the back, and I turned around to see what it was, and who it was, and I didn't see either. Then I was pushed against the rail that is along there in the wareroom.

I finally got back to the office, and I found the office in a terrific condition. Everything was turned over, adding machines and desk, ink was all over the place, things were broken, smashed right and

left, I didn't know what to do or where to go, and I finally went back out into the wareroom, where there was an officer, and I asked him if he wouldn't kindly get me out of there, that I couldn't stand it any longer.

Q. How many officers did you see on the property?

A. One.

Q. And what did he do?

A. He said, "Well, you will have to get out of here the best way you can, girlie, there is nothing I can do for you".

Q. I show you a number of pictures, which have all been offered in evidence, purporting to be the interior scenes in the office that day, and ask if you recollect the condition of the office as being similar to the pictures which I now show you, namely, Plaintiff's Exhibits 3—2, 3 and 4.

(The witness examined the photographs.)

A. I do.

BY MR. HIRSCH:

Q. Do they correctly depict the scene which you saw—

A. They do.

Q. —on that day? Did you return to the plant that day?

A. Well, after I got out of the plant some man took me home, and after I was home I received medical attention about an hour and a half later, and I was naturally still anxious about the records which I couldn't find when I had gotten back to the office, so that I returned to the plant about seven o'clock that night.

Q. And what did you do?

A. I tried to get in the main door, but there wasn't any door there.

Q. What had happened to it?

A. I don't know, it was completely gone, and then I went around to the side entrance, and someone met me at the entrance there and said, "What do you want here?"

I said, "I am an office worker and I would like to get in the office, I would like to see what has happened to my records".

He said, "We are sorry, nobody can get in here unless they have permission".

Q. And did you recognize the person as being an employee of your company?

A. Yes, I did.

Q. And—

A. I later found out who he was.

Q. Who was he?

A. William Etter.

MR. HIRSCH:

Is William Etter in court?

(No response.)

BY MR. HIRSCH:

Q. And it was the same person who was with Mr. Leader outside—oh, pardon me, you didn't testify to that, I withdraw that.

MR. HIRSCH:

Cross examine.

Cross Examination

BY MR. SYME:

Q. The only one that you recognized was William Etter, isn't that right, I mean, in this whole melee, in this whole situation?

A. That is the only one I recognized by name.

Q. I mean, that is the only person that you knew?

A. There were other people that I would have recognized if I would have seen them.

Q. I mean, that is the only person that you recognized?

A. By name.

Q. By name, William Etter.

A. Yes.

Q. Didn't see any officer of the union there, did you?

A. I did not.

MR. SYME:

That is all.

MR. HIRSCH:

That is all.

MR. SYME:

* Your Honor, for the purposes of the record I move that all the witness's testimony be stricken from the record as having been unidentified and unassociated with the union in any way.

THE COURT:

The motion is denied.

MR. HIRSCH:

Paul Bergmeister.

PAUL BERGMEISTER, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. By whom are you employed, Mr. Bergmeister?

A. Apex Hosiery Company.

Q. And for how many years have you been employed by that company?

A. Thirteen years the first of March.

Q. In what capacity?

A. Elevator operator.

Q. Were you on the property of the Apex Hosiery Company on May 6th, 1937,—

A. Yes, I was.

Q. —when the crowd broke in?

A. I was.

Q. You tell us what happened of your own knowledge, prior to the time the crowd broke in, as you observed it, or didn't you observe anything because you were working the elevator?

A. Well, I was upstairs at the time, when the noise was going on.

Q. Yes.

A. And it had been going on quite a while, so I come down. I went to the first floor, and they were throwing bricks and things through the windows, so I walked back to the elevator again and I stood there a while, and they still kept throwing, so I went back again to the first floor, I walked partway up the first floor, and I seen them coming in through the window.

Q. Saw who coming in through the window?

A. The people from outside.

Q. Yes.

A. So I had read in the paper what they do when they catch you inside—

MR. SIMONS:

I object to that, if Your Honor please.

MR. HIRSCH:

Well, now, that may be stricken.

THE COURT:

All right.

BY MR. HIRSCH:

Q. What happened?

A. So I went down in the basement, took off my glasses and put them in my locker, and I went back up on the first floor.

Q. Now, when you went back on the first floor did you see any people there?

A. No.

Q. Then what happened?

A. So I walked toward the center aisle, and as I stepped past the elevator one fellow hollered, "Who are you?", and I turned around. He didn't give me a chance to talk. They had their hands up like that (indicating). There may have been about four of them, I judge, they had their hands like that (indicating), I couldn't see their face.

Q. What was in their hands?

A. An iron pipe. He hit me on the head with it. I grabbed the iron pipe, and as I did he pulled up again, the other fellows hit me in the back of the neck, so I left the pipe go and he hit me again. Then I went down, and when I went down they kicked me in the face and in the head, and they kept kick-

ing me. They says, "You don't have to sign, you will never sign anything".

Q. What happened to you, physically?

A. They broke my jaw.

Q. Where were you taken after that?

A. Episcopal Hospital.

Q. How many weeks were you in the hospital?

A. Three weeks.

Q. And what happened to your jaw?

A. Why, I had my head stitched in two places, I had both lips stitched, my jaw is fractured down this way and across (indicating).

Q. And what was necessary to be done to your jaw to repair it?

A. They had to wire my mouth shut. My mouth was wired shut for about seven or eight weeks.

Q. What else happened to you?

A. Well, they picked me up, they says,—well, when I went down they says, "You don't have to sign, you will never sign anything", and they says, "Let's give him the works", and they started using their feet, and they kicked me in the face and in the head. I tried to protect my face by putting my hand up, and they would kick underneath, I put it down and they kicked from the top. So they picked me up, they says, "Come on, let's get you out." They walked me across the room to the Fifth Street entrance. They handed me to a cop. They says, "Take him away. He is one of them".

Q. They said that to the cop?

A. To the cop.

Q. What did he say?

A. Nothing, he just took me, walked me out the door, they walked me through the crowd on Fifth Street and Luzerne, they made me walk. I couldn't

see for blood, my nose, mouth and all was bleeding. He took me up to Luzerne Street. He says, "Get in the wagon, but don't bump your head." They didn't even help me in.

Q. And they took you to the hospital?

A. Took me to the hospital.

Q. Did you offer any resistance to these fellows that beat you up?

A. No, sir.

Q. Did you give them any provocation or reason to hit you?

A. No, sir.

MR. HIRSCH:

Cross examine.

THE WITNESS:

I didn't even know they were there.

Cross Examination

BY MR. SYME:

Q. Did you recognize any of the people?

A. No, I couldn't, because they had their hand up like that (indicating), you couldn't see their face, and after I got the first shot I couldn't see because I wear glasses and I couldn't see without them, not much.

Q. During all this time you didn't recognize anybody as being associated with the union, did you?

A. Well, I wouldn't know—

Q. That is right.

A. —whether they were associated with the union or not.

Q. Did you see any of the Apex employees there?

A. I couldn't see anybody.

MR. SYME:

That is all.

THE WITNESS:

I just seen the mob coming in. I didn't know whether they were Apex or who they were.

Redirect Examination

BY MR. HIRSCH:

Q. And you were beaten up after the mob broke into the plant, is that correct?

A. After the mob broke in.

MR. HIRSCH:

That is all.

THE WITNESS:

That same afternoon.

MR. HIRSCH:

William Goble.

THE WITNESS:

And I tell you, my jaw isn't right yet. I am still pretty sore here (indicating). It is sore here (indicating). I can't chew anything, I can't eat anything but mashed potatoes, and cut the meat up pretty fine, you might say swallow it whole. My sandwiches I have to wet before I can eat them.

MR. SYME:

Your Honor, for the purposes of the record I make the same motion.

THE COURT:

Motion denied.

WILLIAM GOBLE, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. You are an employee of the Apex Hosiery Company?

A. Yes, sir.

Q. How many years?

A. Thirteen years.

Q. Thirteen years?

A. Yes.

Q. What was your position there?

A. Work collector.

Q. Work collector?

A. Yes.

Q. Do you recall the mob that gathered outside the factory of the Apex on May 6th, 1937?

A. Yes, sir.

Q. Where were you when they were outside?

A. I was up in the second floor on the north end and looking down to that mob.

Q. Did you see the mob when they broke into the property, when they were on the inside?

A. When I heard the noise, and then bricks coming in and all the fellows running away, the fellows comes to the second floor, we ran away, and I ran down the middle stairway, when I ran right into that gang.

Q. You ran down the middle stairway—

A. Yes.

Q. —and ran into the gang; what gang?

A. Why, the fellows what is coming in.

Q. You ran into the crowd that was coming in from the outside of the place?

A. Yes.

Q. What happened to you?

A. Well, here is—soon they get me, right away, and they take me down the steps, and when I get on the floor one fellow had a pipe, this way, and I jumped, and that pipe, that didn't help much, I get it over my body, and everything, you know, and then I was on the first floor and I remember I was down.

Q. What do you mean, "down", down where, how?

A. Well, he hit me down with the pipe.

Q. What happened to you?

A. Well, I had five ribs broken.

Q. Five ribs broken?

A. Yes.

Q. Where were you taken?

A. I was taken to the Episcopal Hospital.

Q. How long were you there?

A. I think I was eighteen days.

Q. How long did it take before you fully recovered from that beating?

A. Oh, I am not recovered yet, right. Well, it took me about twelve—I don't know, about twelve weeks before I could go to work again.

Q. Didn't go back to work for twelve weeks?

A. I think it was about twelve, thirteen weeks.

Cross Examination

BY MR. SYME:

Q. When did you join the Hosiery Workers union?

A. When I signed?

Q. Yes.

A. Joined?

Q. Yes.

A. I signed up when all them signed up, because they come around my door every day, every day, seven or eight men.

Q. You are a member now, aren't you?

A. Yes, I am a member now, when I get my two bottles of tar in my window, my front door, my wife was sick, my wife was sick, I was sick, what I could do? My wife, she lost a baby with that strike, so I couldn't do anything, I have to sign up.

Q. When did you sign up?

A. When? Well, I sign up in—when Mr. Struve give the order to,—

Q. In other words,—

A. —that everybody sign up.

Q. —it wasn't because of any tar, when Mr. Struve gave you the order to sign you signed up, is that right? Isn't that right?

A. Mr. Struve?

Q. It was when Mr. Struve told you to sign up?

A. No, not me.

Q. He told everybody?

A. Everybody.

Q. That is right, when he told you people, all of you, to sign up, that is when you signed up in the union, isn't that right?

A. Yes.

Q. That was around January or February?

A. I don't know when.

Q. You don't remember?

A. I don't remember exactly.

Q. When this crowd started coming around the place where were you?

- A. Second floor.
- Q. Second floor. Where do you live?
- A. Why,—
- Q. Do you live in the northeastern part of Philadelphia?
- A. Yes, that is right.
- Q. You do?
- A. Oh, yes.
- Q. How many years have you lived there?
- A. How many years?
- Q. About how many?
- A. Oh, about nine years, I guess.
- Q. About nine years?
- A. Yes.
- Q. Are you familiar with the northeastern section of Philadelphia?
- A. Yes.
- Q. A lot of industrial plants in the northeastern part, isn't that right?
- A. Oh, yes.
- Q. Lot of factories?
- A. Oh, yes.
- Q. Can you name some of them?
- A. Factory?
- Q. Can you name some of the factories?
- A. Well, there is hosiery down there.
- Q. Outside of hosiery plants.
- A. Outside of hosiery?
- Q. Yes.

MR. HIRSCH:

Well, to save time I will let Mr. Syme put on the record any names of any factories he wants, if he thinks it is relevant, whatever fac-

tories are located in that section we will agree to.

MR. SYME:

Well, Mr. Hirsch, let me conduct my cross examination in my own way. Your Honor,—

MR. HIRSCH:

Well, I will object, then, to this witness being asked about factories in the neighborhood.

MR. SYME:

Now, Your Honor, there is a question here of a crowd. I am showing from this that crowd has been unidentified, the people haven't explained the crowd—

THE COURT:

Yes, I know, you can do that, but why not save time?

MR. SYME:

All right, I will name a few of the plants—

THE COURT:

We will all agree—

MR. SYME:

—and ask him if he knows whether they are there.

THE COURT:

Yes.

MR. SYME:

That is perfectly all right.

THE COURT:

There is no dispute about the plants.

BY MR. SYME:

Q. You know the Philco Radio plant is in the northeastern part?

A. Yes.

Q. They employ about thirteen thousand people, isn't that right, about that?

MR. HIRSCH:

Does he know?

BY MR. SYME:

Q. I am asking you, they employ a great many thousands of people?

THE COURT:

We will accept Mr. Syme's statement they employ around thirteen thousand people. Unless it is proved otherwise I am satisfied with it.

BY MR. SYME:

Q. You know that there was a strike out at the Philco Company plant at the same time as Apex, on May 6th, isn't that right?

A. The strike was before.

Q. Yes, and it was going on on May 6th, isn't that right, as far as you know, or you don't know? I mean, if you don't know, just tell the Court that you don't know.

A. Well,—

BY MR. HIRSCH:

Q. He is asking you about the Philco strike. Do you know anything about that?

A. Well, I know there was a strike in the Philco.

MR. SYME:

That is right.

BY MR. SYME:

Q. There was a strike at the Pioneer Paper Stock Company at the same time?

A. I don't know that.

Q. You don't know. Have you ever seen a strike in the northeastern part of Philadelphia? You said you have been living there for nine years. Have you ever seen a strike there?

A. Well, I hear—I didn't bother with strikes.

Q. You go up and back to work every day, isn't that right?

A. Yes.

Q. Right near the Apex mill there is a plant known as the Mitzi Dress Company. Are you familiar with that?

A. No.

Q. It is right near the Apex Hosiery Company. I mean, have you ever seen a picket line? Have you ever seen a demonstration in the northeastern part of Philadelphia when a strike occurs?

A. Well, sometimes, sometimes you have to see it, but if I can get away from that I don't go by it.

Q. I am not asking you whether you would like to get away from it or not, but in the eight or nine years that you have been living in Kensington have you ever seen any of these things?

A. No.

Q. You never saw any of them?

A. Not so exactly, I don't bother with them.

Q. Are you familiar—do you know the Heintz Automobile Body Manufacturing Company?

A. Yes.

Q. They employ about fifteen hundred people, isn't that right?

A. I don't know.

Q. Well, they are in the northeastern part of Philadelphia near the Apex plant, isn't that right?

A. No.

Q. When I say "near", I mean they are in the Kensington area, isn't that right, and they were on strike at the same time as the Apex plant?

MR. HIRSCH:

If you know.

BY MR. SYME:

Q. If you know. If you don't know, just say you don't know.

A. Well, I think I read in the paper.

Q. Yes, did you read in the paper—

A. Yes.

Q. —that they were on strike at the same time? Do you know any of the people from the Heintz Automobile Body Manufacturing Company, Philco Radio, Pioneer Paper Stock Company, do you know any of them?

A. Well, I used to work in Heintz.

Q. Oh, you used to work in Heintz. Do you know any of the people there?

A. No, I forget their name. That is more than thirteen years ago.

Q. Oh, I see, I see. You didn't recognize any of the union people in the crowd, did you?

A. At the Apex?

Q. Yes.

A. Yes.

Q. Whom did you recognize?

A. Well, when I come down the stairway, the middle stairway.

Q. Yes, you were on the second floor,—

A. Yes.

Q. —when this started?

A. The first one, the first one who comes up, who get my arm and my shoulder, he says, "Hello",

Q. Who is that?

A. It is Greenback, a legger.

Q. Who?

A. Greenback.

Q. When you say union official, you didn't see any union official?

A. No, no, no.

Q. You saw no union official, you saw a legger,—

A. Legger.

Q. —an employee of Apex, is that right?

A. Yes.

Q. Yes, you saw no union official in this, did you?

A. Well, I couldn't see anyone then.

Q. You didn't see—

A. They had to carry me out.

Q. Yes, you were all confused and bewildered, but you saw no union official at all?

MR. HIRSCH:

No, he was injured, he wasn't confused and bewildered.

MR. SYME:

Wait a minute, Mr. Hirsch, your client is doing very nicely.

MR. HIRSCH:

Don't put a construction on his testimony, please.

THE COURT:

Now, Mr. Hirsch, the question is perfectly proper to put just the way Mr. Syme put it. Don't interrupt, and if you have objections address them to the Court.

MR. HIRSCH:

All right, sir.

BY MR. SYME:

Q. You didn't recognize any union official, did you?

A. No.

MR. SYME:

That is all.

MARGUERITE RUPP, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Miss Rupp, you are in what profession?

A. I have charge of the dispensary at the Apex Hosiery Company.

Q. You are a nurse?

A. Yes, sir.

Q. Graduate nurse?

A. Yes, sir.

Q. Graduate of what institution?

A. Hahnemann Hospital.

Q. What year?

A. 1913.

Q. And for how many years have you been in charge of the dispensary at the Apex Hosiery Company?

A. Ten years.

Q. And you are still employed there?

A. Yes, sir.

Q. Do you recall May 6th, 1937, when the crowd broke into the property?

A. Yes, sir.

Q. Were you on the premises when the mob broke in?

A. I was.

Q. What did you see happen?

A. Well, when they started to throw the bricks in Mr. Koelle or someone called me and said the office girls were sick, and I took some aromatics and went up in the middle of the room—

Q. Keep your voice up and speak a little slower. Go ahead.

A. I took some aromatics and went up the middle of the room, and then we were driven from the second floor on up until we landed at the sixth floor.

Q. What girls were they, do you know? I don't mean by name; what position did they occupy?

A. They were girls from the office.

Q. Yes, go ahead, then what happened?

A. And I gave them aromatics and they quieted down. We went up to the second floor. I don't know whether it was Mr. Struve or someone called up and said we should go on up or we would be hurt by glass. We kept continually going up until we got to the sixth floor.

Q. Yes.

A. This man came up with an iron crowbar, and he said we would all have to go down and sign up.

Q. Sign up for what?

A. Well, he didn't say what, he just said sign up, that is what I heard him say.

Q. Then what did you do?

A. Well, we went down to the first floor, and I went in the office, and I asked Mr. Meyer if he would go back with me to get some dispensary records, because we had men out on compensation, and if we didn't have the records they wouldn't get their money, so Mr. Meyer and I went back to the dispensary, and on the way back Mr. Leader was on the table with Bill Etter—

Q. You recognized Mr. Leader, here (indicating)?

A. I do. That is the first time I ever—I saw Mr. Syme there, also.

Q. And where was Mr. Leader and where was Mr. Syme when they—

A. Mr. Syme was sitting on the desk in the ware-room with another man. He had a brief case in his hand.

Q. Where was Mr. Leader?

A. Mr. Leader was on the table, with Bill Etter. He said this mill would never open unless it was under full union control.

Q. Who said that?

A. Mr. Leader.

Q. Is that the gentleman you are referring to,—

A. Yes.

Q. —sitting here at the counsel table (indicating)? And you saw him that day?

A. Yes, and then I went and got the records, and Mr. Struve said to me, hunt up Bill Rummel, he was injured—

Q. Before you get to that, at the time you heard

Mr. Leader make that statement was there anyone around?

A. Oh, yes, a lot of the helpers, the boy helpers, but I wouldn't recognize any special one.

Q. But there was a group around there?

A. Yes.

Q. Did you have time to observe what the group was doing?

A. No.

Q. Were you occupied?

A. As far as I could see, everything was torn up in the wareroom, stockings were torn up on the floor, the tables were tossed over. I found Mr. Meyer and I went back to the dispensary. On the way back they were still there, the boys was.

Q. Did you see Leader?

A. That I can't say—I didn't see him on the way back, no. When I went over I saw Mr. Leader. Mr. Meyer and I both stood there while he started his speech.

Q. Do you recall what happened to Mr. Meyer that day, or Mr. Struve?

A. Well, Mr. Meyer had a lump on the back of his head. He had a lot of blue and red ink all over him. Mr. Struve's arm was injured and his face was cut, and his head and his nose.

Q. What did you do for them?

A. I went back and tried to fix Mr. Struve up with what we had there in the dispensary, but there wasn't anything there to use.

Q. What do you mean by that?

A. The desk was broken, the glass top, the ink was thrown up against the wall, and the glasses in the dispensary, even the looking glasses were

broken, everything was broken and smashed. Then I went in the next morning—

Q. I show you a photograph and ask you if you can recognize the picture of Mr. Leader in that photograph.

THE COURT:

What number is this, please?

MR. HIRSCH:

Well, I will have to—it will only be used if she can identify him.

(The witness examined the photograph.)

A. This is Mr. Leader, right there (indicating).

MR. HIRSCH:

Well, let me have this marked, first. This is Plaintiff's Exhibit number 8.

(A photograph was marked Exhibit P-8.)

BY MR. HIRSCH:

Q. Do you recognize the location of that photograph, what part of the premises it was taken?

A. Yes, it is in the wareroom.

Q. And does that photograph depict the scene which you saw at the time you went through? Is that where Leader was standing on the table?

A. Right there by Josephine's desk, in the center of the wareroom, is where he was standing.

BY THE COURT:

Q. Is that the man with the hat?

A. Yes, sir.

MR. HIRSCH:

I will have to have it marked, Judge Kirkpatrick, I suppose with a cross.

THE COURT:

Well, it is all right. No, that is not necessary; the man standing up there against the column with the hat on.

MR. HIRSCH:

Let me fix it this way—it is the man who is in the top center of the picture standing against a white column with a hat on.

THE WITNESS:

This is Mr. Leader standing on the table.

MR. HIRSCH:

And on each side of him are two persons who do not have hats.

THE COURT:

That is all right.

MR. HIRSCH:

I offer this in evidence.

(The photograph was shown to the jury.)

MR. HIRSCH:

This is the picture. This is the gentleman she identified with the hat, as Mr. Leader. I will show it to you in groups of four.

BY MR. HIRSCH:

Q. Now, were any of the Apex employees injured that day to whom you had to administer?

A. No, I didn't take care of anybody—

THE COURT:

Well, Mr. Hirsch, the matter of personal injuries is not involved in this case, and it is only an incident—

MR. HIRSCH:

Well, I will press it no further.

THE COURT:

We have already covered it pretty well.

Cross Examination

BY MR. SYME:

Q. Mr. Meyer was with you all this time, is that right?

A. When I went back for the records, yes, that is the only time.

Q. When you saw Mr. Leader standing on the desk Mr. Meyer was with you at the time?

A. He was.

Q. Do you see Mr. Meyer's picture here?

(Exhibit P-8 was shown to the witness.)

A. No, I can't recognize him.

BY MR. SYME:

Q. But Mr. Meyer was with you, but he wasn't in this picture?

A. Well, he was with me, and he went back to the dispensary with me.

MR. SYME:

That is all.

MR. HIRSCH:

Now, if Your Honor please, if Mr. Syme will agree to this, there are fifteen other persons

who we are prepared to call whose testimony would be merely cumulative as to what happened on May 6th, the mob breaking in, and the testimony that has been given here by Miss Bradley, Miss Elsner, and Miss Rupp.

THE COURT:

That is the testimony as to the damage done, but without identification of persons in connection with it?

MR. HIRSCH:

Correct, the same testimony as has been given.

THE COURT:

And you would agree—

MR. SYME:

Yes.

THE COURT:

—if they were called they would so testify?

MR. SYME:

That is right.

THE COURT:

Various employees of the plant, are they?

MR. HIRSCH:

Correct, sir.

THE COURT:

All right.

MR. HIRSCH:

May I put their names on the record?

THE COURT:

Oh, yes.

MR. HIRSCH:

And that will save a considerable amount of time.

MR. SYME:

I wonder whether Your Honor would see Mr. Hirsch and myself for a moment?

THE COURT:

Yes, certainly. Come up to side bar.

(Discussion at side bar.)

MR. HIRSCH:

Suppose I give you this list. You copy it into the record, these names. I have an extra copy here, I think, of the names. I am giving the stenographer fifteen names. He will copy them in.

THE COURT:

All right.

(The names of the following were supplied by Mr. Hirsch:

Mildred Ruhl
Julia Cardwell
Kathryn Miller
Anna Boos
June Heidner
Naomi Mittelstedt
Gertrude Kest
Grace Wagner
Ann Pfeiffer
Kathryn Smith
Sadie Silver
Grace Sterner
Frances Bauer

Milton S. Steeple
Emil B. Mott)

MR. SIMONS:

If Your Honor please, may I at this time renew the objection, to strike out all the testimony given by all these witnesses? I had not renewed it for all of them because I understood it would go to each one of them.

THE COURT:

That is all right. It is understood it applies to them all, and it is overruled as to all.

HELEN DORWART, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Miss Dorwart, you are an employee of the Apex Hosiery Company?

A. I am.

Q. Will you keep your voice up so everybody can hear you? For how many years have you been employed by that company?

A. Over two years; not quite three.

Q. You were employed on May 6th, 1937?

A. That is right.

Q. And in what capacity?

A. As a bookkeeper and for Mr. Meyer.

Q. And among your bookkeeper duties what in particular did you have charge of? Any particular funds?

A. Oh, yes, Christmas and vacation funds.

Q. You have heard the testimony of these previous witnesses as to what happened and the crowd coming in and the destruction of the property, and so forth, have you not?

A. Yes.

Q. Is your recollection substantially the same, so that I need not ask you the same questions?

A. Oh, yes, quite the same.

Q. Now, after the crowd had broken in did you see any officer of the union on the premises?

A. Yes.

Q. Who was it?

A. Well, I saw Mr. Leader and I saw Mr. Driscoll.

Q. Is Mr. Leader the gentleman sitting here (indicating)?

A. That is right.

MR. HIRSCH:

Will Mr. Driscoll stand up?

MR. SYME:

Your Honor, I object to that.

BY MR. HIRSCH:

Q. Well, will you pick out Mr. Driscoll in the room?

A. He is the tall gentleman back there—let's see, the second one back, with the gray suit on, on the end. I knew both of them before May 6th. They had been pointed out to me while they had been around the mill.

MR. HIRSCH:

Now, Mr. Driscoll,—

THE WITNESS:

At various times.

MR. HIRSCH:

—in order that the jury may know to whom you are referring, will you stand up now, please? Come forward so the people can see you.

(Mr. Driscoll came forward.)

BY MR. HIRSCH:

Q. This is the gentleman you saw on the premises (indicating)?

A. Yes, sir.

Q. And Mr. Leader was there, also?

A. Yes, sir.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Now, where was Mr. Leader when you saw him on the premises, and what was he doing?

A. Mr. Leader was on a table in the wareroom. He was standing on the table, in fact, and he was addressing a crowd of men.

Q. Did you hear what he said?

A. Yes, I did. I was standing back of one of the poles there, and there were, I suppose at least hundreds of men there, and he called to them and tried to attract their attention, and he impressed them with this one fact, that they were the sit-downers.

Q. What did he say? Just tell the jury what he said,—

A. Well, he said—

Q. —as you best recollect.

A. —that the union wasn't going to let them leave there until Apex signed a closed shop agreement, and that while they were there the union would take care of them, and all the time they were in possession they would have food provided—

Q. By whom, did he say?

A. The union, and there would be cots provided, and blankets.

Q. Did he say who would provide those?

A. Oh, he said the union, he said, "We will take care of you", and he also told them that there was a job for each one of them to do, that they might as well get organized and appoint a chairman, because these things which the union was providing would have to be taken care of, and he told them it was—he used this expression, he says, "It is just the same as if you were in the Army, now, you have these things to look after, and there will be men posted at the doors to see that—that you don't leave", or something to that effect.

All of the men—I recognized, in fact, some of the men as being our employees, but all of them didn't pay attention. There were a few up close to him who were very attentive, and one was Mr. Driscoll, and Mr. Syme was standing there.

Q. Did you see Mr. Etter there?

A. Mr. Etter was standing on the table with Mr. Leader.

Q. I show you a photograph that has already been offered in evidence as Plaintiff's Exhibit 8, and ask you whether this is a photograph of the scene which you saw on that day.

(The witness examined the photograph.)

A. I saw that picture being taken. I am quite sure the photographer was from that angle.

BY MR. HIRSCH:

Q. Do you recognize anybody in that picture? Take a good look, and tell us whom you recognize.

A. Yes, Mr. Syme is there, and Mr. Driscoll, and Mr. Leader, and Bill Etter. The others, there are a few faces I recognize—oh, yes, one of our janitors.

Q. Now, where is Bill Leader? Which gentleman is he?

A. He is the one back here, standing above the others. He stands out (indicating).

MR. HIRSCH:

Pointing to the same person that Miss Rupp pointed to when she testified.

THE WITNESS:

He was easy to pick out. So was Mr. Driscoll. He usually wore a light hat.

BY MR. HIRSCH:

Q. Will you point—

A. You could see them in the crowd.

Q. —to Mr. Driscoll?

A. Yes, he has a light hat, here.

MR. HIRSCH:

Does Your Honor think this ought to be marked, or just leave the testimony as it is?

THE COURT:

Oh, I don't care, as you want, as you please.

MR. HIRSCH:

Well, suppose we use letters for these people.

THE COURT:

Anything you want. Here is a red pencil, if you want to use that, if that will help you.

MR. HIRSCH:

Yes, that will.

BY MR. HIRSCH:

Q. Now, this is the gentleman you point out as Mr. Leader?

A. That is right.

Q. Put a letter "A" above his—

THE COURT:

Why don't you put "L" above him?

MR. HIRSCH:

All right, "L", "L" above Leader.

BY MR. HIRSCH:

Q. Now, will you point out Mr. O'Driscoll again?

A. Leo Driscoll, there it is.

Q. Is it O'Driscoll, or Driscoll?

MR. SYME:

Driscoll.

MR. HIRSCH:

We will put a "D" above Driscoll.

THE WITNESS:

There is Etter (indicating).

MR. HIRSCH:

We will put an "E" above him.

THE WITNESS:

Mr. Syme. (Indicating)

MR. HIRSCH:

Just a second. I don't know whether ink will do any better on this. There is "E" for Etter.

THE WITNESS:

Mr. Syme, do you want him?

MR. HIRSCH:

That is all right.

BY MR. HIRSCH:

Q. And, now, with reference to the time that you left the property, and with reference to the speech which you heard Mr. Leader make as to the fact that the union would provide cots and blankets, did you as a matter of fact see any cots and blankets being brought into the property before you left that day?

A. Yes, they were unloading them as I left, bringing them in. I saw the food and blankets and cots.

BY THE COURT:

Q. What time was that?

A. Very early evening.

Q. Well, what would that time be?

A. Well, I couldn't say exactly. I lost track of time.

Q. Well was it before six or after six?

A. Oh, it was after six.

THE COURT:

All right.

BY MR. HIRSCH:

Q. And did you see Mr. Leader still on the premises at the time the cots and blankets—

A. Oh, yes.

Q. —were being brought in?

A. He was there then.

Q. What else did you hear Mr. Leader say? I will withdraw that at the moment. Did you sign any application for union membership on that day?

A. I did, yes.

Q. Do you remember the circumstances under which you signed it?

A. Why, yes. When we came down from upstairs there were not one, but any number of men accosted me and the others and insisted, just made us sign a card.

Q. Do you recall the card? Would you recognize it if I showed you a card?

A. Oh, yes, because I read it. I read the last paragraph very carefully, and that is when I knew I didn't want to sign it.

Q. I show you a card entitled "Pledge Card", and ask you to look at it carefully before you answer, and tell us whether or not that is the card which you signed on that day.

(The witness examined the card.)

A. Yes, it is. It said American Federation of Hosiery Workers.

THE COURT:

Let me see it.

A. (Continued) I don't know whether it said Local or Branch No. 1. I know it had that number on it, and it said "Pledge". It said in the last paragraph that I pledge myself that I will enter into a sit-down strike against Apex Hosiery Company, and I knew I didn't want to sign that, but there

wasn't anything else to do but to sign it, because the men who handed it to me plus the others standing around him were very insistent, and I knew they meant business.

BY MR. HIRSCH:

Q. Now, what, if anything, did you hear Mr. Leader say about signing it?

A. Well, while he was standing before the crowd there were organizers moving around in the crowd, and he asked whether everybody had signed. He was checking up to make sure that everybody had.

Q. Had signed what?

A. A pledge card like this, because they were everywhere..

Q. Did you see those cards in the hands of other persons?

A. Oh, yes, it seemed most everybody—that is, not everybody, but everywhere you looked, the fellows had a bunch of these in their hands, and some had dropped on the floor. In fact, I got one so I could have it to see what it was that I had signed.

MR. HIRSCH:

I offer this card in evidence as Plaintiff's Exhibit number 9.

A. (Continued) In some cases you heard them say, "Yes, I signed that", and they would say, "Oh, doesn't make any difference, sign up again." They wouldn't take your word for it.

MR. HIRSCH:

I read this card to the jury. This is a pledge card, headed, "Pledge Card, American Federation of Hosiery Workers, Branch No. 1. Af

filiated with the C. I. O. (Committee for Industrial Organization)''.

The body of the card reads as follows:

"I hereby accept membership in the American Federation of Hosiery Workers' Union and of my own free will authorize its representatives to act for me as a collective bargaining agency in all matters of wages, hours of employment, single machine system on leggers; union agreement, closed shop and check-off system of dues and assessments.

"I pledge myself if called upon to go on a sit-down strike with other workers of the Apex Silk Hosiery Co. to bring about full recognition of our demands and the Union."

(Card entitled "Pledge Card, American Federation of Hosiery Workers, Branch No. 1, was marked Exhibit P-9. A copy thereof follows:

Exhibit P-9—Copy of Pledge Card

**"PLEDGE CARD
AMERICAN FEDERATION OF
HOSIERY WORKERS,
BRANCH NO. 1**

Affiliated with the C. I. O.

(Committee for Industrial Organization)

I hereby accept membership in the American Federation of Hosiery Workers Union and of my own free will authorize its representatives to act for me as a collective bargaining agency in all matters of wages, hours of employment, single machine system on leggers; union agree-

ment, closed shop and check-off system of dues and assessments.

I pledge myself if called upon to go on a sit-down strike with other workers of the Apex Silk Hosiery Co. to bring about full recognition of our demands and the Union.

Name

Address

City

Dept.

Remarks

Date

Organizer

")

Cross Examination

BY MR. SYME:

Q. Who gave you one of these cards?

A. One of the men who had come into the mill, who was with the—

Q. Well, now, how do you know that?

A. —crowd.

Q. Wait a minute, you say one of the men who came into the mill. What do you mean, one of the men who came into the mill? Did you see him come into the mill?

A. Well, now, that is understood.

Q. Well, now, nothing is understood, now, don't—

MR. SYME:

Your Honor, will you instruct the witness to answer my questions, and not try to be a wise-acre?

THE COURT:

No, I won't give her any instructions. You ought to be able to take care of the situation.

A. (Continued) Well, there were thousands of people there.

BY MR. SYME:

Q. That is right.

A. Whose faces, some of them, I could recognize their faces, but I couldn't tie up a name and a face.

Q. That is right.

A. Not with so many thousands of people.

Q. Therefore, you don't know whether when you say one of the people who broke into the mill, you don't know that, isn't that so, who gave you this card?

A. I do know that, because, you see, a crowd came in and followed right through and came right there at the wareroom, which is adjacent to the office.

Q. What you mean is, he was one of the members of the crowd who was milling around, isn't that right?

A. Well, I know this, I know that none of our employees had clubs nor wrenches nor any pieces of metal, nor bars, or anything of the sort, in their hands, because they wouldn't be able to,—

Q. How many people were there?

A. —and these people did. How many people were there?

Q. Yes.

A. In the plant?

Q. Yes.

A. You mean our employees?

Q. That is right—no, altogether.

A. Oh, I couldn't count them. There were thousands of them.

Q. And did you pick out your employees from the thousands of people?

A. Well, there were a few there I could recognize as being ours, but it was very few.

Q. So that when you say—

A. There were strange faces, and then, not only that, but our employees for the most part weren't in the mill, they had gotten out for safety's sake.

Q. Well, how do you know that?

A. Because I saw—

Q. There were thousands of people,—

A. —them go out.

Q. —and you were standing—what? I am sorry.

A. They were sent out, you see.

Q. They were sent out earlier in the day?

A. That is right.

Q. And this thing occurred later in the day, isn't that right, in other words,—

A. Followed right on the heels of the other.

Q. Well, the employees—the plant was closed at what time, according to your recollection?

A. Oh, afternoon, early afternoon.

Q. Yes, about 12:30, would you say, one o'clock?

A. Perhaps, something like that.

Q. About one o'clock, and this occurred at what time?

A. Around four in the afternoon.

Q. Around four in the afternoon?

A. It was brewing gradually.

Q. Yes.

A. And it came to a head about then.

Q. Well, isn't it quite possible that your employees who had been let out at one o'clock might have come back and been in this crowd until four o'clock?

A. Our employees didn't even want to go out.

Q. Well—

A. They were afraid, so when they went out they didn't mix with the crowd.

Q. Oh, but you wouldn't know that there might be a lot of your employees in the plant, isn't that right?

A. Well, there were a few—

Q. Yes.

A. —people.

Q. Yes.

A. Naturally, you would have to have some—

Q. Well, you recognized Bill Etter,—

A. That is right.

Q. —and several others?

A. Well, he and a few others were up around Mr. Leader when he was addressing the crowd, when I heard him, and there were others who I recognized their faces but not their names.

Q. Yes.

A. I couldn't tell you who were in that crowd, but for the most part those people weren't interested in what Mr. Leader had to say, he had to repeat, he kept saying that, "You are the sit-downers, and you aren't going to leave here until we get a closed shop agreement from Apex, and get organized." He kept impressing them with that. They didn't take up the idea very readily. As I say, there were a few, just a very few, right close to him, and one was Bill Etter.

Q. This meeting in the mill—oh, I am sorry, excuse me, I thought you were finished—this meeting in the mill was after the conference in the office, isn't that right, with Mr. Meyer, or don't you know?

A. I presume it was.

Q. Yes.

A. I didn't watch—

Q. About what time would you say this meeting was in the mill?

A. Oh, that was in the evening.

Q. In the evening?

A. Well, late afternoon; call it early evening.

Q. When everything was practically over, isn't that right?

A. Then it was done, yes.

Q. I mean, the crowd—had the crowd dispersed?

A. Well, it was dispersing.

Q. It was dispersing. You remember that day—
Oh, I don't remember about what time, do you?
—a torrent of rain fell, isn't that right?

A. Well, they told me afterwards that it had rained. I don't recall that really distinctly at all. It seems to me that when I went out of the mill the streets were wet and they said it had been raining very hard.

Q. When you went out of the mill had the crowd gone?

A. A good bit of it had dispersed. That is what I was waiting for.

Q. What time did you leave the mill?

A. That I am not positive of. I lost track of time.

Q. Do you know approximately what time?

A. Well, I know it was in the evening.

Q. In the evening?

A. Yes.

Q. By the time you had left the mill had everybody else gone?

A. Do you mean outside or inside?

Q. Inside.

A. Oh, no.

Q. Had Leader gone—

A. He had not.

Q. —by that time?

A. Not when I left, because that is the last thing I saw when I left.

Q. Yes.

A. Because where he was standing isn't very far from the exit that I used.

Q. And you say that the crowd had dispersed?

A. Yes, it had, to some extent.

Q. And Leader hadn't gone as yet?

A. Well, all the people hadn't gone, and—

Q. I mean, I asked you—

BY THE COURT:

Q. Leader was still there?

A. Oh, he was still there,—

BY MR. SYME:

Q. Will you try—

A. —yes, indeed.

Q. —to refresh your memory, whether according to your recollection the crowd on the outside had gone, but Leader was still in the mill?

A. Well, I wouldn't say the whole crowd had gone on the outside then.

Q. Well, a great part of it had gone?

A. Well, I suppose the curiosity seekers had gone.

Q. The curiosity seekers had gone, but Leader was still in the mill?

A. Yes.

Q. And you say that you had waited until the crowd would disperse before you left the mill?

A. Well, to some extent, yes, that was part of my purpose, I suppose.

Q. And after the curiosity seekers had gone

from the crowd about how many curiosity seekers would you say had gone?

A. I don't know, but there were still a lot of people around the mill.

Q. Well, approximately what part of the crowd would you say had gone?

A. Well, I don't know. I was anxious to get away from the mill.

Q. Well, just approximately. Approximately how many people would you say were there—

A. I couldn't say.

Q. —at the height of this?

A. Because I took a car right away which was right across from the mill. I didn't get a good look at them at all.

Q. Now, when would you say—did you see the crowd at any time from the outside?

A. When I left the mill?

Q. No, prior to that time, when the thing was at its height.

A. No.

Q. Did you ever see the crowd?

A. Not from the outside. I saw the crowd from the inside.

Q. Inside, I see. About how many people would you say there were on the outside when you left?

A. Well, there weren't as many as what there had been.

BY THE COURT:

Q. Well, could you tell?

A. I don't know.

Q. Let's put it this way, did the crowd look half as big as it was?

MR. SYME:

She didn't know that, Your Honor, she said she never saw the crowd on the outside until she left. It becomes important, how many people—she says the curiosity seekers had gone, that Leader was still in the plant—

THE COURT:

Would you mind letting me talk to the witness?

MR. SYME:

No objection.

BY THE COURT:

Q. I was going to ask you whether you had any idea what portion of the crowd it was. Was it half as big as it was?

A. Well, it might have been about half as large, yes.

THE COURT:

All right.

BY MR. SYME:

Q. So that you would say about half the crowd consisted of curiosity seekers, is that right?

A. Well, what happened was traffic had resumed.

Q. Yes.

A. And whereas it had stopped prior to that time. You see, when traffic had stopped, meaning no trolley cars, then there was that much more space in the street for crowds. Well, by the time—that is, later on traffic had resumed, and, therefore, that naturally forced more of the people out of the way.

Q. Oh, the only reason—

A. Which, of course, changed the number of people standing around.

Q. Then according to your interpretation the only reason the people had gone was because of the fact the traffic had resumed? You didn't hear Leader address the crowd on the outside, did you?

A. Yes, I did. I heard him say that, "I declare a sit-down strike—"

Q. No, no, no, no, no, no, I am not referring to that. Did you hear Leader address the crowd after the conference in Mr. Meyer's office, asking the crowd to leave? Did you or did you not? You say that you followed Leader, this, Leader, the other, you saw Leader in the plant when you left, and when you went outside the crowd had decreased by half; did you or did you not hear Bill Leader talk to the crowd and ask the crowd to leave?

A. No, I never heard him.

Q. You didn't, and you saw Leader in the plant—

A. Yes, I did.

Q. —all the time? That is fine; that is all.

THE COURT:

Recess for ten minutes.

(Recess at 11:20 o'clock A. M.)

(MR. HIRSCH:

It is agreed by counsel for both parties that the Mr. Syme referred to in the testimony of Miss Dorwart and the preceding witnesses is the same Mr. Syme who is counsel for the defendants in this case.)

EARL STOUT, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Stout, you are an employee of the Apex Hosiery Company?

A. Yes, sir.

Q. And for how many years?

A. Five years.

Q. In what position?

A. Office work.

Q. And what particular office work do you do?

A. Pay-roll and time work.

Q. In connection with the pay-roll and time work have you contact or do you have contact with the knitters—

A. Yes, sir.

Q. —and employees out in the mill?

A. Yes.

Q. You have heard what has been testified to as having occurred on the premises on May 6th, 1937, insofar as the premises were invaded—

A. Yes.

Q. —by a mob and destruction. Does that coincide with your recollection of events on that day?

A. Yes, sir.

Q. And did you sign anything on May 6th, 1937?

A. Yes, I signed one of those pledge cards.

Q. I show you a card that has already been offered in evidence as Plaintiff's Exhibit number 9, and ask if this is the card, or if this is the same as the card which you signed on that day.

(The witness examined the card.)

A. It is the same thing, yes.

BY MR. HIRSCH:

Q. And under what circumstances did you sign it?

A. Clubs over our heads.

Q. Did you desire to join the union on that day?

A. No, I didn't desire to join the union. You were forced to because they had clubs over your head, until you give them the card, back to them.

Q. And how long were you around the property that day?

A. Well, I wasn't around it very long, until they got us down from the sixth floor, then I come down and signed this card under force, and then I got out as quick as I could.

Q. And were there—

MR. SIMONS:

If Your Honor please, may I enter the objection at this time, because apparently we are going on another line of examination; I don't know whether Your Honor wants to continue the same objection as to the matter of identification of these persons.

THE COURT:

Well, anything you want to do. If you have an objection, make it, it is all right.

MR. SIMONS:

Well, now, I object at this time to the testimony being offered. There is no identification as to the particular persons who are alleged to have threatened him or held clubs, as he said, over him.

THE COURT:

Yes; well, I will overrule the objection.

BY MR. HIRSCH:

Q. Now, did you see these pledge cards which you have testified as being—one of which you identified as being signed by you, being distributed that day by others than the persons who solicited your membership? Were there a number of persons—

A. Oh, yes, everybody that I saw had the cards in their hands, everybody.

MR. SYME:

If Your Honor please, may I then make the general objection, so I don't have to interrupt every time, to this whole line of examination relating to what persons did in and about the premises at that time unless there is proper identification as to their relationship to any of the defendants in this case; and I object to any conversations that they have had with any persons unless they are identified with the defendants in this case.

THE COURT:

Very well.

BY MR. HIRSCH:

Q. And did you return to the property after May 6th?

A. On Saturday I returned, that is all, Saturday morning.

BY THE COURT:

Q. What day of the week was May 6th?

A. Friday.

BY MR. HIRSCH:

Q. And for what purpose did you return on that day?

A. Well, I didn't know whether we could do anything to get straightened out there.

Q. And did you return after that date?

A. Oh, about four different occasions, for different records regarding the pay-roll.

Q. Now, when you returned to the property was there any production going on that you could see?

A. Production going on?

Q. Yes, of hosiery.

A. No.

Q. Any shipments of hosiery—

A. No.

Q. —that you could observe?

A. No shipments whatever.

Q. Who was on the property?

A. All our own fellows was on the property then.

Q. What were they? What were they doing?

A. Oh, I saw some lying in bed, and some were getting up, and eating, one occasion they were having their lunch, I guess it was.

Q. And how many were there of that group, as far as you could observe?

A. Oh, I don't know, they were walking over the place, there must have been anywhere, around one hundred and fifty at that time, that I saw.

Q. And were they living on the property?

A. They must have been living there. They had beds and all; I saw them getting up.

Q. What else did you see? Did you see them eating on the property?

A. Well, I saw them eating. They offered me some of their lunch one time I was back there.

Q. And do you recall the names of any of these persons who were on the property?

A. Yes, I can recall some.

Q. Did you recognize most of them?

A. Yes, I could recognize all of them, I guess.

Q. And would it be possible for you to pick them out, even if you don't recall their name, just by recognizing their face?

A. I could tell by their faces.

Q. Now, tell us some of the names that you recall, if you recall any at this time.

A. Oh, there was—there was—I know Middleton was there.

Q. What is his first name?

A. Steve, Steven.

Q. Yes.

A. And Jene Delario, and Ernest Del Prete, and DiSannis, he was one of them.

Q. Look around the room and see if you recognize anybody in the room who was among that group.

A. No, I don't see any of those.

Q. Well, are you only looking on one side? Look on both sides of the room.

THE COURT:

Go back and walk around, if you want to.

MR. HIRSCH:

Go back and walk around.

THE COURT:

If it is too far away for you.

THE WITNESS:

I don't see anybody in the room—oh, there is Steiner and Hallstein, I see them.

BY MR. HIRSCH:

Q. Well, now, what is their name?

A. Well, Ray, Ray Hallstein and Frank Steiner; those two back in the corner.

MR. HIRSCH:

Ray Hallstein will you stand up, please?

THE COURT:

Well, he has identified them.

MR. HIRSCH:

All right; Ray Hallstein and Frank Steiner.

THE WITNESS:

Then there was Jake Schulberger.

BY MR. HIRSCH:

Q. And they were members of this group on the property?

A. They were all members, yes.

Q. Now, tell us, how did you get in the property? Did you have any trouble getting in?

A. On one occasion they wouldn't let us in, we couldn't get in, and we paraded around the streets for a while, and then we went back to the office.

Q. Who was in charge of the gates?

A. Well, it was our own sit-downers who was inside there.

Q. What do you mean by "our own sit-downers"?

A. Well, I mean the Apex fellows.

Q. You mean Apex employees?

A. Was on the inside, yes. They opened the door and let you in and let you out.

Q. Were the doors locked when you came to get in?

A. They were locked.

Q. And what had to be done in order for you to leave the property?

A. Why, the organizers, the ones in charge, had to be there to let you out. There was one occasion—

Q. Were the doors locked when you went out?

A. Oh, yes, they were locked then. See, we couldn't get out there on one occasion, when the organizer was over to another plant, we had to wait until he got back.

Q. Now, am I correct, do I understand you correctly that in order to get in and out of the property the gates had to be opened by the sit-downers who were in possession?

A. They were on the inside in possession of the gate, yes.

Q. Did you have—

THE COURT:

May I ask one question, gentlemen? Is it disputed in this case—leaving out of question the various acts of violence—is it disputed in this case that the sit-down strike, as such, was conducted by the authority of the union? Is that a subject of dispute?

MR. SYME:

Your Honor, if you would like to discuss that I would much rather discuss it at side bar,—

THE COURT:

Yes.

MR. SYME:

—or if you want to discuss it in chambers—

THE COURT:

No.

MR. SYME:

I mean, for the purpose—

THE COURT:

All right, we can go over—

MR. SYME:

I mean, for the purpose of expediting—

THE COURT:

Oh, you don't need to answer the question now. I didn't really know what your position was about it. I will have a chance to take it up with you, and perhaps it is just as well to take it up in chambers.

MR. SYME:

Thank you.

THE COURT:

I would like to find out. I don't know what your position is on that matter.

MR. HIRSCH:

Cross examine.

MR. SYME:

No questions.

MR. HIRSCH:

That is all. Mr. Struve.

F. ELWOOD STRUVE, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Struve, you are an official of the Apex Hosiery Company, are you not?

A. Yes, sir.

Q. And what is your position with that company?

A. General manager.

Q. And as general manager what particular duties come under your direct supervision?

A. Personnel and all manufacturing.

Q. In other words, you are the factory man?

A. Yes, sir.

Q. For how many years have you been with the Apex Company?

A. Since 1917.

Q. Now, are you fully familiar with all the manufacturing operations of the company?

A. Yes, sir.

Q. You heard Mr. Meyer testify yesterday regarding the matters which transpired prior to May 6th in so far as a conference with the officers of the national union and the officers of the local union, particularly Mr. Leader, at the Bellevue-Stratford was concerned, at which the open shop manufacturers participated. Do you recall his testimony?

A. I was present at the same meetings.

Q. Well, rather than have you repeat or question you similarly, in a similar manner to the questions I put to Mr. Meyer, is your recollection of

what transpired in so far as those prior negotiations were concerned the same as Mr. Meyer's?

A. Very clear.

Q. And your testimony would be the same if questioned?

A. Yes, sir.

Q. Now, directing your attention to the date of May 6th, 1937, when the disturbance took place at your plant, when was the first time on that day that you knew of anything—withdraw that question.

What, if anything, happened prior to that date of an unusual nature, as far as you could observe?

A. Well, they were loitering around mills, around the mill, for two weeks prior to the actual happening.

Q. And what were they doing?

MR. SYME:

Your Honor, I object to that, "What were they doing?" Who were "they"?

MR. HIRSCH:

I will try to bring in who they were. We first have to find out who was loitering.

A. The people on the outside contacted our employees as they came, and took—

Q. Did you recognize any of them?

A. Yes, a number of them.

Q. Who?

A. There was quite a number of them I recognized.

Q. Do you recognize anyone sitting in this room who was outside of your mill prior to May 6th—

A. Yes.

Q. —contacting your employees?

A. Mr. Driscoll is one.

Q. Mr. Driscoll, the gentleman sitting back here (indicating)?

A. Yes, sir.

Q. Yes.

A. And I believe I can—if I have the time to think, there are a number of them I noticed.

Q. But you do recall seeing Mr. Driscoll outside?

A. Yes.

Q. And what was Mr. Driscoll and these other persons doing in so far as you could observe?

A. Well, Mr. Driscoll acted as a sort of a captain, I would say, as a direct organizer, he directed those different men just what they were to do, and as our people left the mill I saw them being contacted, and I saw them having cards handed to them, and with all the arguments that went on, too, I saw people being punched, girls being kicked, and all the likes of that.

Q. That was prior to May 6th?

A. Yes, sir.

MR. SIMONS:

Wait a second, Your Honor, may I object to that and ask that that be stricken out, unless there is some identification as to who did all this?

THE COURT:

Well, what is Driscoll's position? Is he a member of the union?

MR. SIMONS:

Yes.

THE COURT:

Is he an officer of the union?

MR. SYME:

He was a part-time organizer.

THE COURT:

Well, there is plenty—

MR. SYME:

He is not an officer now. He was not an officer at that time.

THE COURT:

I will deny the motion.

MR. SIMONS:

Well, may I say, I am not referring to the mention of the name "Driscoll", but referring to other incidents that he is relating, about what he was—

THE COURT:

Well, I know, but here is a man that testifies that Driscoll was acting as a sort of a captain and directing what was being done.

MR. SIMONS:

Well, he doesn't say that Driscoll ordered or directed it to be done, or it was even done in the presence of Mr. Driscoll.

THE COURT:

It is a matter for the jury to determine whether it was or not. I will overrule your motion.

MR. SIMONS:

All right.

THE WITNESS:

Mr. Driscoll was there with the sound truck

BY MR. HIRSCH:

Q. For how many days was there a sound truck there?

A. Well, it may have been more than two weeks, but I know, I am pretty sure when I say two weeks.

Q. What names were on the sound truck that you recall?

A. Well, I know the name very outstanding, C. I. O.—

Q. That appeared on the sound truck?

A. —organization campaign.

Q. What else happened of an unusual nature outside your mill prior to May 6th that you saw?

A. Well, at one time they tried to storm the center gate. That was about, I believe, two days or three days before that, two or three days before that, and I know I heard our employees yelling because they couldn't get out. There was, I believe, about a thousand girls that couldn't get through the gate because they had the gates blocked, and I told them they finally would get out, we would see that they will get out, but then after a half an hour our people, they became very impatient, and I really feared that there might be a lot of trouble, and I says, "Now, we can't keep these people here," I called the police, and the police came, but the police couldn't manage, there were only a few, but our people, we had to open the gates, we wanted to go home, and, of course, that day there were a lot of girls injured.

Q. How many days prior—

MR. SIMONS:

If Your Honor please, may I make the same objection to that, the indefinite "they" that did all this, that participated in this occurrence?

THE COURT:

Yes.

THE WITNESS:

I can, if counsel would like me to tell them definitely about that day, I can easy bring witnesses to that effect.

MR. HIRSCH:

No, well, now, don't worry about that.

BY MR. HIRSCH:

Q. Do you recall whether or not on that particular occasion when this group was outside you recognized anyone in the crowd from the union?

A. No.

Q. You did not?

A. No, I did not.

BY THE COURT:

Q. What proportion of your employees are men, and what proportion women? How are they divided?

A. It is about 1350 women.

Q. And about a thousand men?

A. It was more than a thousand men.

Q. About half and half?

A. It varies between 2450 and 2500, just according to the way they operate.

Q. Nearly half and half?

A. Ye nearly half and half.

BY MR. HIRSCH:

Q. Now, aside from people outside prior to May 6th, what else did you observe going on on the outside prior to May 6th of an unusual nature?

A. Well, I believe that is enough, with all kinds of commotions going on.

Q. Well, I don't want to lead you. Leaving aside the question of what you saw outside in so far as people were concerned, was there anything else that was outside your mill of an unusual nature which was not there on every other day?

THE COURT:

Oh, you can suggest to him, if you have something in mind that he doesn't know.

BY MR. HIRSCH:

Q. Were there any bricks and other things outside your mill prior to May 6th?

A. Before May 6th, late in the afternoon, why—

Q. What day, do you recall?

A. I—

Q. How many days before?

A. I believe it was on Monday, on the Monday, after 4:30, a truck came along and distributed bricks, half bricks, in the weeds on the opposite side from our mill on Luzerne Street, and one of our men, our maintenance men, and I, we saw that.

Q. Were they new bricks?

MR. SIMONS:

Now, wait, if Your Honor please, I object to that, also, for the same reasons.

THE COURT:

Well, it will all have to be sifted out somewhere. Some of these things—

MR. SIMONS:

Well, the only thing is this, if Your Honor please. We are getting quite a number of things in here without proper identification, getting a lot of color that may or may not be important, or may or may not be tied up to the union, and the reason I am making these objections is so that it will be a question; I will ask Your Honor to instruct the jury whether to consider or not to consider these various items.

THE COURT:

Oh, yes, it will have to be taken care of somehow. I have no doubt some things will have to be eliminated. I don't know how far they will go.

MR. HIRSCH:

Well, I won't press this particular phase of the examination, because all we can show is that there were bricks outside. There were bricks thrown through the windows on May 6th. Frankly, we can't say the same bricks we saw on May 3rd were the ones that were thrown through the window.

THE COURT:

That is all right.

MR. SIMONS:

If Your Honor please, that is the reason I am

objecting. Here is something that you brought in in order to lend a certain amount of color,—

MR. HIRSCH:

No.

MR. SIMONS:

—but there can't possibly be any connection or association with this incident.

THE COURT:

I wouldn't say there can't possibly be. There might be or might not be; I don't know.

MR. SIMONS:

Well, Mr. Hirsch has admitted he can't tie it up in any way.

MR. HIRSCH:

Oh, no.

MR. SIMONS:

You just said that.

THE COURT:

Well, gentlemen, let's not argue. I am taking the testimony subject to objection and it can be stricken out on motion if it appears it has no relevancy.

MR. SIMONS:

May I ask at this time, in view of Mr. Hirsch's statement that he cannot tie it up, that it be stricken from the record?

MR. HIRSCH:

No, I said that we can't produce testimony to show that it was the same bricks, but I think it would be a question for the jury.

THE COURT:

Well, gentlemen, I will grant the motion to strike out this particular testimony

MR. HIRSCH:

All right, I won't press it.

THE COURT:

The jury will not regard the testimony relative to the distribution of bricks on the Monday preceding the riot.

BY MR. HIRSCH:

Q. Now, with reference to the date of May 6th, 1937, what was the first thing of an unusual nature that you noticed occurring on that day?

A. I received telephone calls from manufacturer friends of mine telling me that—

MR. SIMONS:

Wait, we object to any conversations—

THE COURT:

Yes, just leave out telephone calls. Let it go at that.

BY MR. HIRSCH:

Q. As a result—you got calls from a number of manufacturers?

A. Yes.

Q. As a result of those calls what, if anything, did you do?

A. I tried to contact Mr. Meyer. Mr. Meyer wasn't in Philadelphia at that time. I did contact him—

MR. SIMONS:

I object to conversations —

THE COURT:

Yes.

MR. SIMONS:

—with Mr. Meyer.

THE COURT:

Don't tell us what you said. What happened?
Let's get along, gentlemen.

THE WITNESS:

Mr. Meyer—

THE COURT:

We have been over this a good many times.

THE WITNESS:

—and myself felt the best thing to do—

MR. SIMONS:

I object to that, if this is a conversation not
in the presence of the defendants.

THE COURT:

You tell us where you were.

THE WITNESS:

In the office.

BY THE COURT:

Q. What was the first thing you saw out of the
ordinary on the 6th of May?

A. The crowd gathered to a large amount and
we decided to leave our mill out at twenty minutes
of one, leave the people go home, rather than have
bloodshed around the mill.

THE COURT:

All right.

MR. SIMONS:

I object to that, if Your Honor please, and ask that it be stricken from the record. I don't want to be getting up all the time making these objections, but I think we are giving every possible leeway to permit the whole story to be presented. I don't think we have been captious in any of our objections, but there has to be a line somewhere.

THE COURT:

What are you objecting to now?

MR. SIMONS:

That he let them out to avoid bloodshed, and what his thoughts and anticipations might have been.

THE COURT:

Don't you think he was justified?

MR. SIMONS:

What is that?

THE COURT:

Don't you think he was entirely justified in his apprehensions?

MR. SIMONS:

No, I say, I think Mr. Struve could testify to the facts as they occurred, not to his thoughts.

THE COURT:

Well, but what harm does it do? He foresaw bloodshed and there was bloodshed. He was

right about it. I don't think it does anybody any harm for him to say that is the reason he let the mill out.

MR. SIMONS:

All right.

THE COURT:

I will overrule the objection.

THE WITNESS:

The mill was left out twenty minutes of one, very orderly. We retained the office force and maintenance men. I then called Inspector La Rue.

BY MR. HIRSCH:

Q. He is the police officer?

A. I was told then that anything unusual would happen, in fact, Inspector La Rue told me that I should call him; I called him, and he said he would be up as soon as possible. I believe within twenty or thirty minutes Inspector La Rue came into the office, and I told him that—what was occurring, and that I had left the mill out. He then congratulated me. He said—

THE COURT:

Oh, never mind. Don't say what he said.

MR. HIRSCH:

Don't tell us what he said.

BY THE COURT:

Q. What happened next?

BY MR. HIRSCH:

Q. Go ahead, tell us what happened then.

A. The next I know, about three o'clock, when the pounding started.

Q. Now, prior to that time, Mr. Meyer testified to a conversation he had with La Rue, and the suggestions that Mr. La Rue made to him at that time. Were you present, and did you hear that conversation?

A. I was present. That was right in my office.

Q. And is your recollection substantially the same as Mr. Meyer's, so that your testimony if given would be the same on that point?

A. Yes.

Q. Now, where were you when the—strike that out. What was the first intimation that you had that the mob intended to come into the place? I mean, what first happened?

A. Well, bricks came through the windows. The sashes were broken. I looked through the different floors, all the way up to the fourth. The bricks came in even on the fourth floor, that is, the lighter stones, I didn't see exactly whether they were bricks or stones, but the windows were broken up to the fourth floor, and I just wanted to see for myself whether this was going to be a murder or whether there was protection around the mill. I looked out of the window as far as I could, and I saw the mob, and I saw very few police.

Q. How big a mob was it that you saw?

A. Well, I would judge—I might have said fifty thousand, as far as that, the way it looked to me at that time, but after considering about what the street would hold, it couldn't have been more than fifteen or twenty thousand.

Q. And did you observe the actions of the po-

lice while the mob was in the act of throwing bricks through your windows and breaking the windows, and so forth?

A. Well, I saw the uniforms. They were facing the other houses, on the other side of the street, directing traffic. That is all I saw.

Q. Did you see the police make any arrests that day?

A. No.

Q. Did you see the police take any active steps to prevent the mob from breaking into your place and laying it waste?

A. No.

Q. Your shakes won't go on the record, Mr. Struve,—

A. No.

Q. —unless Mr. Rodebaugh is watching you. What did you do after you made this observation?

A. I came down to the first floor, and I saw Mr. Meyer in the center of the floor, and I said, "This is terrible, this is absolutely—"

Q. Well, don't tell us what you said to him.

A. We—we went to the office.

Q. And then what happened?

A. And just at that time, why, they were breaking through the doors, in fact, the door was down. They were coming through the partitions, moving the safes, and everything.

Q. How big a crowd?

A. Well, I tell you, it was just like—like a bunch of ants coming through. I didn't think of counting.

Q. Well, I mean, was it a large or a small crowd?

A. Well, all that could come through the door.

THE COURT:

That is a good enough picture of it.

BY MR. HIRSCH:

Q. And what happened to you? What did you do?

A. Well, we put up our hands and we were received with—well, I got an inkwell right on my chest, with red-ink, and iron clubs and bars, and over our heads. I was shoved from the office to the shipping room, kicked around over the trucks there, scales—I don't know how I got out to the yard, I know I fell out, and just at that time, you know, another brick came through right into Mr. Meyer's car, not far away from me. I was bleeding by that time.

One man came to me, tried to come to my rescue, and he says, "Go under the hydrant here, I will wash your blood off", and as he did, he says, "Now, do you see what you get?", with that he socked me on the head again, and, of course, by that time Mr. Harper came to my rescue.

Q. Who is Mr. Harper?

A. Our maintenance engineer.

Q. Yes.

A. And took me into the air conditioning room in back of the big fence. Of course, the mob was hollering, "Kill Struve"!

Q. What then?

A. I recognized the fellow, by the way, that hit me. That was—

BY THE COURT:

Q. Who was he?

A. Last name was Hartman.

Q. Was he an employee of yours?

A. No, sir.

BY MR. HIRSCH:

Q. Was he a member of the union?

A. Yes, sir.

Q. Did you know where he was employed?

A. I couldn't tell you that. He is employed in Philadelphia in one of the mills.

Q. And what did you do after you went in the air conditioning room with Harper?

A. I stayed in there until I left, you know, that it was my duty to be with Mr. Meyer, because Mr. Meyer, he—I felt he was in the mob, and God knows what happened to him by now, so I wanted to get out, and again, you know, they pounded on the door there and wanted to know whether Struve was in there, and Mr. Harper held me, not to go out, but finally I left anyhow and located Mr. Meyer again, in the center of the floor in the wareroom.

Q. You located him?

A. Yes.

Q. Now, did you ever see Mr. Leader, the president of the union, on that day?

A. I saw Mr. Leader.

Q. Where?

A. In the center of the wareroom, with Mr. Meyer, standing there in the crowd.

Q. Was this after the crowd broke into your place?

A. Yes, sir.

Q. And did you have an opportunity on that day to observe the condition of your office and the rest of the premises after the mob had swept through and done its damage?

THE COURT:

Oh, we have had that many times.

MR. HIRSCH:

All right.

BY MR. HIRSCH:

Q. When did you next return to the plant after May 6th?

A. May 7th, in the morning.

Q. What was the situation then prevailing?

A. Well, we had to get in the back entrance through the gate. I don't know how we got in, we got in, and, of course, everything was demolished, the office was unsightly, and we took notice of the situation, radios going, young men and some girls being drunk. We felt the best we can do is to leave or we didn't know what would happen.

Q. That was Saturday, wasn't it?

A. No, that was on a Friday morning.

Q. All right, and then when next did you return?

A. Well, we—I didn't return no more until after we signed the agreement with the union.

Q. Well,—

A. No, excuse me, I returned on the following Sunday.

Q. That would be May 9th?

A. That was—anyway, it was the following Sunday, shortly after ten o'clock.

Q. That was the Sunday following May 6th?

A. That is right.

Q. Were you able to get into your own factory?

A. I drove down Fifth Street and around Rising Sun Avenue. I know I couldn't get in any other way because the other entrances were guarded with several men standing in front of it, so I thought I would go in the back gate, and there was a lock on there.

Q. Did you recognize the lock? I mean, what, if anything, had—

A. Well, I didn't look for that lock right away.

I know we had a lock on there, but I usually ring the bell first.

Q. Yes.

A. To attract a watchman.

Q. Yes.

A. And, naturally, a watchman answered my call, came out, and he looked at me, and I says, "Open the gate."

He says, "I can't open the gate."

"Well, why not?"

He says, "Well, I had to ask myself to get in this morning, they took the locks off and put their locks on", so I noticed—I noticed then it was a different lock.

Q. Were you ever given a key to those new locks?

A. No, sir.

Q. What else did you do that day?

A. I noticed the boys were playing baseball in the yard, and I attracted—they looked kind of strange to me, I wasn't used to that—I attracted their attention. They came over. I says, "Will you open the gate for me?"

"No," he says, "we aren't allowed."

Q. These boys were the sit-down group?

A. They were boys that worked for us.

Q. They were among the sit-down strikers?

A. Yes.

Q. And when you say you saw them playing in the yard, that was inside the gate?

A. Inside.

Q. On your property?

A. Yes, so all I could do is leave.

Q. Now, prior to May 6th you ran what Mr. Meyer called an open shop, without any agreement with any union, is that correct?

A. That is correct.

Q. Mr. Meyer was questioned yesterday about a plant organization with whom you collectively bargained. Were you directly in charge of the employees?

A. I was.

Q. Did you know of any union that was maintained by your own employees, either as an inside or a company union, prior to May 6th?

A. I don't know anything of any union outside of the union we have a contract with now.

Q. Did you ever see your entire group of employees hold meetings on your property?

A. I did.

Q. Prior to May 6th?

A. I did.

Q. Were those meetings held as a union, or as a group who were negotiating for matters of hours or wages?

A. As a group of our employees.

Q. Do you know of any of the group having been elected as an officer of this union, or whether they collected dues? Was there such a union in your plant?

A. Not in our plant.

Q. Now, Mr. Meyer spoke of collectively bargaining with your employees. Was that a fact?

A. Well,—

Q. Did you collectively bargain?

A. Sure, certainly.

Q. And how was that carried out?

A. If we had any grievance of any kind, any nature, I went to the department it affected, talked to my people, and bargained with them in that way.

Q. And were there committees appointed by the employees in various departments to deal with you?

A. Yes.

Q. Did you ever have any occasion where you were unable after discussing a matter to finally agree with your employees to their satisfaction, prior to May 6th?

A. We always agreed with one another.

Q. Are you familiar with the physical conditions prevailing in other hosiery mills in the City of Philadelphia and elsewhere? Have you been inside other hosiery mills?

A. I have been inside, yes, but I have never inquired about the conditions.

Q. The physical conditions, have you observed the inside of the mills, and how they are maintained and kept?

A. Well, let somebody else—

THE COURT:

Oh, I don't really think it is particularly—

MR. HIRSCH:

All right.

THE COURT:

—relevant.

BY MR. HIRSCH:

Q. Is your mill thoroughly modern throughout, with all modern facilities?

A. Yes.

Q. Sanitation and otherwise?

A. Yes, we try to keep it modern.

Q. What type of lighting do you have for your employees?

A. Well, for the machines, Cooper-Hewitt.

Q. What is a Cooper-Hewitt light?

THE COURT:

Well, gentlemen, I know that counsel on the other side don't want to object, but it seems to me—

MR. HIRSCH:

All right.

THE COURT:

—it is entirely immaterial to this whole matter.

BY MR. HIRSCH:

Q. Prior to May 6th did your employees in any way indicate to you that they were dissatisfied with their working conditions or their hours of work, or their rates of pay?

A. Never.

Q. Did you attend a conference at the request of the Department of Labor, United States Government, during the period of the sit-down strike?

A. I did.

Q. Where was that conference held?

A. In offices of the National Labor Relations Board.

Q. Well, now, let's get that correct; was it in the office of the Secretary of Labor?

A. Oh, that—oh, yes, that was in Washington.

Q. Yes.

A. That is right.

Q. And who was present? This was during the sit-down strike?

A. That is right, during the sit-down strike.

Q. And that was during the time when you were unable to get on the property?

A. Correct.

Q. Now, who was present at that conference in Washington?

A. Mr. Lang, Mr. Haines, Mr. Tilles,—

Q. Now, I don't know whether we are talking about the same conference. Was there a conference in Washington with regard to the sit-down strike at Apex?

A. That is right.

Q. Held with the Secretary of Labor—

A. That is right.

Q. —or his assistant?

A. That is what I mean.

Q. Go ahead.

A. Mr. Constantine.

Q. Who was Mr. Constantine?

A. He is now the president of the National Association of Hosiery Manufacturers.

Q. Go ahead.

A. Mr. William Leader.

Q. President of this union?

A. Of this union. Mr. Driscoll.

Q. Mr. Driscoll is the gentleman sitting in the back, who has already been identified—

A. That is right.

Q. —by various witnesses?

A. Mr. Rieve.

Q. Who is Mr. Rieve?

A. He is the president of the Federation of Full Fashioned—

Q. That is, the national union,—

A. That is correct.

Q. —of which this defendant union is a branch?

A. Right.

Q. And who represented the Secretary of Labor?

A. I can't recall that name.

Q. Edward—

A. Oh, that was Mr.—I can't just recall the name.

Q. Edward—

A. McGrady.

Q. —F. McGrady?

A. Mr. McGrady, that is right.

Q. Now, what was the general purpose of that conference?

A. The general purpose of that conference was to—to settle these strikes, to settle our own and conditions in general, because strikes existed all over.

Q. What, if anything, did Leader have to say about your particular strike, if anything?

A. Well, he said that, "My union won't call off this sit-down strike until you sign up a full closed shop".

Q. And who did he mean when he said "you"?

A. Well, he meant the Apex Hosiery Company. That was directly addressed to us at that time.

Q. Now, during the period that the sit-downers were in possession of your property were there any manufacturing operations at all conducted by your company?

A. Not at all.

Q. Nor were there any shipments of finished merchandise?

A. No.

Q. You recall that on July 29, 1937 an agreement was signed with this union?

A. Yes, sir.

Q. Had you been able to do any manufacturing at all prior to July 29th?

A. No.

Q. Why not?

A. Well, the place was demolished. We couldn't get in, in the first place.

Q. And were you able to do any manufacturing after July 29th?

A. No.

Q. Until what time, in so far as—

A. Until—

Q. —complete operations were concerned.

A. Until we had the machines fairly under control, repaired, I believe that it was about—we started to manufacture about the middle of August.

Q. Was that full manufacturing?

A. No, sir.

Q. When were the major repairs to the machinery completed?

A. Beginning of November.

Q. And how long did it take to make all the repairs to the plant?

A. I would say practically to the beginning of January, 1938.

Q. Now, without going into any detail, because we have other witnesses for that purpose, were you able after you finally went upon the property to make an examination of the damage to the various machines?

A. I made, yes, examinations.

Q. Will you tell us in general what you found as to the condition of these machines?

MR. SIMONS:

If Your Honor please, I think that I will have to object to it.

THE COURT:

Well, yes, we did have that once, in general,

just to introduce us to the subject. Now, do you have any specific evidence?

MR. HIRSCH:

We have persons who made a minute examination.

THE COURT:

Well, let's not go over this again.

MR. HIRSCH:

All right, I will withhold that at the moment.

THE COURT:

I let Mr. Meyer testify in general to that.

MR. HIRSCH:

Yes.

THE COURT:

Just so we would get a general view of the whole thing, but there is no use of going on with it in view of the fact that you are going to produce definite evidence on that point.

BY MR. HIRSCH:

Q. Now, during the period that the sit-downers were in possession of your property were you able to send any fixers to keep the machines in repair.

THE COURT:

Well, Mr. Meyer testified to that. I don't think it is necessary to cumulate on this.

MR. HIRSCH:

All right.

THE COURT:

If there is any dispute about it I will permit you to recall witnesses in rebuttal.

MR. HIRSCH:

I want to get his opinion on one phase of it, namely, corrosion, leaving the machines idle.

THE COURT:

All right.

BY THE COURT:

Q. What is the effect of leaving the machines idle and without constant attention?

A. Well, they come in disrepair.

Q. Even if nothing is done to them?

A. That is correct.

Q. Even if nobody interferes with them, they will fall into disrepair by being let alone?

A. Absolutely.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Now, in so far as your machines are concerned, the ones that you observed when you got in possession of your property, and directing your attention only to those machines which were not actually damaged, what was the condition of those which were not actually damaged, but which were as they were by reason of being allowed to remain idle?

A. Well, partly rusty, corrosion had set in, dust settled on oil and hardened, and that was sufficient that you couldn't operate the full fashioned knitting machine until it was cleaned, all of them.

Q. Now, who understood those particular repairs? I am talking now only of the machines which were not damaged, because the machines which

were damaged were repaired by a particular concern, were they not, the Reading Textile mill?

A. Yes.

Q. Now, who repaired the other machines?

A. My own men repaired those machines.

Q. Reading Machine Works, that is right, Reading Machine Works.

A. No, they were repaired by our own men.

Q. No, I am correcting what I had said about the Reading Textile. Do you recall how many machines were repaired by your own men?

A. Well, we had at that time 361 machines. Two were half way erected; I would say 359; and 134 were badly damaged.

Q. And those badly damaged machines were repaired by Reading Textile Machine Works?

A. By Reading Textile Machine Works.

Q. And the balance would be approximately two hundred and twenty-five machines.

A. That is about right.

Q. That is about right, if my arithmetic is correct.

A. That is right.

THE COURT:

Well, now, I want to recess five minutes earlier today because I have something that has to be attended to, and we will recess until two o'clock. I wonder if counsel could meet me at quarter of two and go over some of these matters that have come up. I think that I can be there, in chambers, at quarter of two.

(Recess, 12:25 until 2 o'clock P. M.)

After Recess

Present: Counsel as before noted

F. ELWOOD STRUVE, recalled.

Direct Examination (Continued)

BY MR. HIRSCH:

Q. Mr. Struve, you were in court yesterday when Mr. Meyer testified, were you not?

A. I was.

Q. And rather than have you repeat answers to questions pertaining to matters about which he testified, and in which he said you participated, let me ask just these general questions. You recall his testimony regarding a meeting held in the early part of August in my office, attended by Mr. Leader and Mr. Syme, yourself, and Mr. Meyer, wherein you went over the check-off cards?

A. I do.

Q. And you recall his testimony that there were no more than four hundred cards shown to you at that time?

A. Correct.

Q. Is that your recollection?

A. It is.

Q. And do you recall how many cards were dated prior to May 6th that were shown you at that time?

A. Yes, sir.

MR. SYME:

Pardon me, Your Honor, I thought we went into all of that.

THE COURT:

Yes, we did, and I don't think it is very material.

MR. HIRSCH:

All right.

THE COURT:

I think it has very little to do with it.

MR. HIRSCH:

All right.

BY MR. HIRSCH:

Q. Your testimony would be the same as Mr. Meyer's on that question?

A. Only one correction, before May 6th.

BY THE COURT:

Q. What is your correction?

A. Seven.

Q. You say there were seven?

A. Yes.

THE COURT:

All right.

BY MR. HIRSCH:

Q. And you recall Mr. Meyer's testimony about being supplied with the names of union members among your employees in the latter part of August. He testified that there were 848 names given you for check-off purposes.

MR. SYME:

Your Honor, I thought you had disposed of that question. Mr. Hirsch still continues on that line.

THE COURT:

I think we have enough on that, Mr. Hirsch.

MR. HIRSCH:

All right.

THE COURT:

It is really not material on what happened here.

MR. HIRSCH:

All right. Other questions would merely be cumulative, if Your Honor please, and I will close my examination.

THE COURT:

All right.

MR. HIRSCH:

Cross examine.

Cross Examination

BY MR. SYME:

Q. Mr. Struve, you had shop rules, isn't that right, in your shop?

A. Yes.

Q. Is that a copy of your shop rules, Mr. Struve?

(A document was shown to the witness.)

A. As of what date, Mr. Syme?

BY MR. SYME:

Q. Do you remember having these shop rules on your bulletin board prior or immediately preceding and on May 6th, 1937?

MR. HIRSCH:

I think that is objectionable, if Your Honor please, as being immaterial, unless Your Honor thinks it ought to go in.

THE COURT:

Well, I can't tell. I don't know what counsel has in mind.

MR. HIRSCH:

All right.

THE COURT:

I will let it go in.

THE WITNESS:

They were.

BY MR. SYME:

Q. They are?

A. Yes.

Q. Mr. Struve, the first rule in these shop rules is: "This mill operates on the non-union basis".

Do you remember that?

A. Yes, I do.

Q. And that was on your bulletin board on May 6th, isn't that right?

A. Yes.

MR. SYME:

I offer this in evidence, Your Honor, as Defendants' Exhibit number 1.

MR. HIRSCH:

You can't offer it at this time.

THE COURT:

Well, he can't offer it now,—

MR. HIRSCH:

Yes.

THE COURT:

—but unless you object to it I will receive it now.

MR. HIRSCH:

All right.

MR. SYME:

All right.

(Shop Rules of the Apex Hosiery Company were marked Exhibit D-1. A copy thereof follows:

Exhibit D-1—Shop Rules

“Shop Rules

1. This mill operates on the non-union basis.
2. All employees must be at their places promptly at starting periods.

3. Employees must continue at their work until whistle has blown.

4. Employees are prohibited from leaving their respective places and interfering with other employees during working hours.

5. All employees must keep their places clean, and must sweep their aisles out into the main aisle each day.

6. All employees have the legal right to earn all they can, and keep all they earn; their rights must not be interfered with in this respect. This firm guarantees the price per dozen will not be reduced because of the extra wage any employee earns through industrious efforts and skillful efficiency.

7. Every employee is responsible for his or her work, and for any mistakes, such as using wrong yarns, or silk, making wrong lengths,

courses, sizes, mixing of wool, etc., or rough handling, whereby seconds or thirds are produced.

8. Knitters must at all times avoid unnecessary wasting of yarn or silk, knitting of a leg or foot after it is spoiled in knitting must be pressed off immediately.

9. Only those machines can stop on account of shortage of raw materials as are directed by the manager.

10. Cleaning machines while in motion is not permitted. A cleaning gang will help knitter to clean machine, using one hour each week.

11. Knitters must not mend their work. All menders must be placed in separate bundles of one dozen pair each, and be plainly marked and delivered as mender dozens.

12. Bobbins or cones of yarn or silk must be carefully handled. At no time must bobbins or cones be thrown nor anything done that will damage them.

13. Silk or yarn must not be pulled off cones or bobbins, but must be returned to the bobbin or cone collector.

14. Machines must not be left running in absence of the operator.

15. Smoking or chewing tobacco is positively prohibited on the premises.

16. Profanity or the use of vulgar language is prohibited.

17. Any employee absent without permission or notifying the firm for the cause of their absence has practically left, and must consult the person in charge of their department before resuming work.

18. Employees are prohibited from throwing refuse from the windows or about the premises. Cans are provided on each floor to receive refuse.

19. Talking or signalling to persons on the outside from this mill is prohibited.

20. Reading or eating during working hours is prohibited.

21. All employees handling hosiery must count same carefully, as any reported shortage will be charged to the last operator at full price.

22. All just complaints must be made to persons in charge of the department. If same cannot be straightened out, this matter must be referred to the general manager; also any suggestions for the good of the firm should be taken up in the same manner.

23. All employees are requested to give at least one week's notice of their intention to leave their employment.

24. Any violation of the above rules subjects the person for dismissal.

25. The General Manager has full authority to act in all matters pertaining to shop conditions and the manufacturing of our product.

By Order of

Apex Hosiery Company.”)

BY MR. SYME:

Q. So that when Mr. Meyer testified that your shop was operated on an open shop, it really was operated on a non-union basis, isn't that right, Mr. Struve?

A. No.

Q. Well, what do you mean by this?

A. That was disregarded, not in effect.

Q. And yet it was on all of your bulletin boards on May 6, immediately preceding the strike, isn't that right?

A. It wasn't on the bulletin boards.

Q. Well,—

A. It was framed. That particular one must have been taken out of a frame.

Q. All right, it was framed, and it was hanging in the mill, isn't that right?

A. That is correct.

Q. That is right.

THE COURT:

May I see the rules?

MR. SYME:

Surely.

BY MR. SYME:

Q. You had all sorts of instructions on these rules to your employees, isn't that so? Did the other rules prevail?

A. Did not.

Q. The other rules did not prevail. Why did you put this rule on, "This mill operates on the non-union basis"? You printed this, didn't you?

A. We had that printed, yes.

Q. And you put it up, and you allowed it to stay there, isn't that right?

A. We allowed it to stay there, yes.

Q. And yet you say you didn't intend that as one of the rules?

A. No.

Q. Mr. Struve, you have testified to the fact that if your employees had any grievance they could indicate it to you, is that right?

A. Yes.

Q. How did they indicate any grievance that they might have to you?

A. Well, they would have to come to you and tell you about it.

Q. Well, you had twenty-five hundred employees?

A. Correct.

Q. Did each individual employee come to you with his grievance?

A. Yes, if they felt that way.

Q. Each individual employee would come to you with his grievance?

A. Yes.

Q. Do you have shop committees?

A. Yes, we had shop committees.

Q. How were the shop committees elected—or, were they elected?

A. They were elected among the employees.

Q. You have testified to the fact that there never was any other union in your place outside of the union with which you have contracted, that is, the American Federation of Hosiery Workers,—

A. That is correct.

Q. —is that right?

A. Yes.

Q. Do you remember this organization, the Na-

tional Association of Hosiery Workers, circulating cards in your plant as of May 6th and prior to May 6th?

(A card was shown to the witness.)

A. No, I don't.

BY MR. SYME:

Q. You don't. Did you print a magazine in your place?

A. No.

Q. Did your employees print a magazine in your place?

A. This, if you refer to that magazine, that magazine was printed by the printer, by men outside of the mill, not in the mill.

Q. Well, I know, it was printed by the printer.

A. Well, you asked me whether we printed in the mill.

Q. I show you the Apex Social Chat, once a month, for and about the employees of the Apex Hosiery Company.

MR. HIRSCH:

Dated what date, Mr. Syme?

MR. SYME:

Dated May, 1936, with a picture of Mr. Meyer in front.

THE COURT:

Let me see it.

BY MR. SYME:

Q. Who paid for the printing and who edited this magazine?

A. That was edited by anybody that would want to have something to be printed in that paper.

BY THE COURT:

Q. Who paid for the printing?

A. Why, the advertisers.

Q. What?

A. The advertisers.

Q. Well, is it a company publication or is it an employee publication? Was it published with the assistance and the approval of the company?

A. That is right, that is right.

THE COURT:

All right, that is it.

BY MR. SYME:

Q. I show you the issue of June, 1936—or, as far as that goes, May, 1936—and read you the list of people who are in charge of this Social—Apex Social Chat: F. Elwood Struve, editor; William Meyer, honorary editor; F. W. Koelle, advertising manager—you will pardon me if I mispronounce some of the names—

A. That is all right.

Q. —that I am not familiar with. Then you go on with the editorial staff. Then you come to shop representatives, Harry Swoyer, Oscar Hoch, John Schork, Edward Frank, and so on. These are employees; isn't that right?

A. That is correct.

Q. In other words, in the editorial staff of this Apex Social Chat you have first the company officials, and then you have your shop representatives, is that right?

A. That is correct.

Q. And was that the composition of this organization with which you dealt?

A. That is right.

Q. That is all with respect to this. Just one minute. You testified to the fact that Hartman was a union member, isn't that right?

A. Yes, to my knowledge.

Q. When did you first meet Hartman?

A. In—first met Hartman, I believe that must have been about 1918, '19.

Q. Was he a member of the union at that time?

A. Yes.

Q. Did Hartman ever hold office in the union, as far as you know?

A. That I don't know.

Q. Well, you know as a matter of fact that he doesn't hold office in the union today?

A. No, I couldn't say that.

Q. Mr. Struve, you have testified to the fact that there was a sound truck in front of your place?

A. Yes, sir.

Q. Did you ever hear what anybody said from the sound truck?

A. No, sir.

Q. Isn't it a matter of fact that what the American Federation of Hosiery Workers, Branch 1, was doing was trying to organize your employees, trying to get them to join the union, isn't that right?

A. That is right.

Q. The union had tried to secure membership in your place for some time, isn't that right?

A. I guess so.

Q. Did you post these shop rules, that this is a non-union shop, after Judge Finletter had handed down his injunction forbidding the union to organize?

A. No, sir.

Q. When did you post it?

A. That was after 1921.

Q. You posted this after 1921?

A. Yes.

Q. I see, and you have had it on your bulletin board from 1921 to May 6th, 1937, is that right?

A. Yes, I guess that is correct.

BY MR. HIRSCH:

Q. Was it on your bulletin board?

A. No.

BY MR. SYME:

Q. Well, it was framed—

A. Framed.

Q. —in your plant?

A. That is right.

Q. How did you know Hartman was a member of the union?

A. He was a member of the union when I knew him.

Q. Well, how did you know that?

A. Well, because he worked at one time with the Apex Hosiery Company, for the Apex Hosiery Company.

Q. What happened to him? You say that he is not working at the Apex Hosiery Company today.

A. Well, he left.

Q. Or, was not working on May 6th.

A. He left, he left.

Q. He left, or did you discharge him?

A. No, he left.

Q. He left of his own volition?

A. Yes, sir.

Q. He was a member of the union while he was in your place?

A. Yes.

Q. How long did he work for you?

A. Well, I couldn't tell you that exactly, now.

Q. You asked him whether he was a member of the union while he worked for you, isn't that right?

A. Yes, I did.

Q. Did you make it a habit of asking your employees whether they were union members while they worked for you?

A. At that time, yes, because we were compelled under the contract, under the rule.

Q. Under what rule?

A. We were—prior to 1921, we were one hundred per cent union.

Q. And Hartman worked with you prior to 1921?

A. That is correct.

Q. I see, but after 1921 he didn't work with you?

A. No.

Q. I see. When you say you were under contract prior to 1921 you don't mean that you were under contract with the American Federation of Hosiery Workers, do you?

A. Well, it wasn't a contract, but under the understanding we had with the union at that time, nobody could be employed unless they had a paid-up union book.

Q. Well, when you say—was that with the American Federation of Hosiery Workers?

A. Yes.

Q. Branch 1?

A. Yes, that is correct.

Q. That was prior to 1921?

A. Yes, sir.

Q. What happened, Mr. Struve?

A. What happened?

Q. Yes, how is it that you began operating as a non-union or as an open shop subsequent to 1921?

A. At that time there was a strike in Philadelphia.

Q. Yes.

A. General strike.

Q. Yes, and what happened?

A. Well, we started to operate any way we saw fit.

Q. I see, and—

A. We just started.

Q. —you broke off your relationship with the union, is that right?

A. Exactly.

Q. In other words, the union went out on strike and you didn't replace the trade union members?

A. Oh, yes.

Q. You broke the strike at the time?

A. Yes, they came back.

Q. They came back, but you didn't take them back as union members, you took them back as non-union people?

A. No, they came back as union members.

Q. Did you have a contract with the union after 1921?

A. No, there wasn't such a thing at that time.

Q. And after '21—

A. It wasn't known.

Q. And after 1921 you wouldn't contract with the union, isn't that right?

A. That is correct.

(Discussion between counsel.)

MR. SYME:

All right, well, I wanted to introduce a cer-

tain paragraph here, Your Honor, I wanted to ask Mr. Struve about that, but Mr. Hirsch insists that I read the entire thing. It isn't very long. Will Your Honor bear with me?

MR. HIRSCH:

If it is relevant.

THE COURT:

What is it all about?

MR. SYME:

What is that?

THE COURT:

What is it all about?

MR. HIRSCH:

Something that was published the year before. I have no objection to him asking if it was published and reading it, but let him read the article, if that is the article.

THE COURT:

Let me see it.

I don't see the slightest necessity of reading any of it. I don't insist on anything. If counsel does not object I will permit you to read anything you want.

MR. HIRSCH:

Well, I will wait until he makes his offer or refers to it. Then I will make my objection if necessary.

THE COURT:

Counsel for the defendants proposes to read a portion of an article from a magazine.

MR. HIRSCH:

Well, then I object to reading a portion. I submit that I have no objection if he will read the entire article, but to take one paragraph out of its complete text would not be fair.

THE COURT:

Well, I agree that the entire article is irrelevant, and if you object to reading a portion I will sustain that objection.

MR. HIRSCH:

Well, I object to reading the portion.

THE COURT:

I will sustain the objection.

BY MR. SYME:

Q. Did you participate in the writing of any of the articles in this magazine, Apex Social Chat?

A. Yes, sir.

Q. Did you write any of them?

A. Not directly; with the help of all our people.

Q. Yes, did you at any time comment in the Apex Social Chat on your attitude toward the National Labor Relations Act?

A. Never.

Q. Did you at any time indicate to your employees what your attitude was toward the National Labor Relations Act?

A. Never.

Q. In any way?

A. Never.

MR. SYME:

Your Honor, again, that becomes exceedingly pertinent.

THE COURT:

Gentlemen, I think we ought to understand thoroughly that there is no question here—this jury is not trying the question of whether the Apex was a good employer or a bad employer, or a liberal employer or a reactionary employer, whether it was favorable to labor or unfavorable to labor, whether it was modern in its plant equipment, or antiquated, or any of those things, any more than the jury is trying to determine whether this union was a good union or a bad union, or whether it was, generally speaking, in favor of labor legislation or against it. The only question that we are determining here is whether the union and these individual defendants were responsible for certain damage that was done, how much that damage was, and that ends the discussion, and there isn't anything, there isn't any other issue before the Court here, and I think that counsel ought to conduct this case with that understanding very clearly in mind. We have no question here of attempting to judge the labor policy of either the union or the employer in this case. The employer may have been entirely wrong about it, they may have been absolutely right. That would not have the slightest effect upon the issue in this case. It is just a question—the evidence shows that certain damage was done; it is simply a question of whether the defendants in this case are responsible and reliable for that damage, or not. There isn't anything else in it.

MR. SYME:

And whether, Your Honor—will you also add—and whether the Court has jurisdiction in

so far as it is a violation of the Sherman Anti-Trust Act.

THE COURT:

Well, if we come to that question, I think the Circuit Court of Appeals has settled that, regardless of any views I might have on the subject.

MR. SYME:

Your Honor, I wouldn't introduce all of this testimony if it were not for the fact that both Mr. Meyer and Mr. Struve and counsel in his introductory address to the jury have tried to give the impression that this company has always bargained collectively,—

THE COURT:

Well, a great deal of that—

MR. SYME:

—with its employees.

THE COURT:

—you didn't object to. Counsel for the plaintiff undoubtedly shoveled a whole lot of stuff in here that was just merely matter of atmosphere, and I would have sustained objection to it right along if it had been made. A great deal of that had to go in, a great deal of what might seem irrelevant matter had to go in in order to determine how far there was union responsibility for the acts which were committed there, and that is the only purpose for which I let any of it in, and a great deal of it probably can be stricken out, I let it all in subject to a motion to strike out, and it seems to me in view of what

I have just said to the jury that we don't need to go along that road any further.

MR. SYME:

Now, Your Honor, I don't want to burden the record unduly with a lot of material, if Your Honor will agree that all of the material or a great deal of the material that Mr. Hirsch has introduced into the record—

THE COURT:

Well, I can't—

MR. SYME:

—with respect to the fairness and justice—

THE COURT:

Of course, I can't—

MR. SYME:

—of the company, and its equitable dealing—

THE COURT:

I think it is utterly immaterial, and I think so far as—

MR. SYME:

If you will entertain a motion on that score that it will be stricken from the record I won't proceed with this cross examination.

THE COURT:

I think unquestionably there is no issue in this case as to the attitude, general attitude, of this company toward labor or toward its own employees.

MR. SYME:

Thank you.

THE COURT:

It is not involved in the case, and the jury surely understands from what I say that that is the situation. We are not in the least bit interested in judging the labor dispute that existed out there. That is not what we are here for, and I can't make it much clearer that that is what I think about it.

MR. SYME:

That is all.

JOHN HARTUNG, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Now, Mr. Hartung, will you keep your voice up? You are an employee of the Apex Hosiery Company?

A. Yes, sir.

Q. And immediately following the sit-down strike which took place on May 6th, 1937 did you come to the premises every day, and if so, for what purpose?

A. Watch them.

Q. You were a watchman on the property?

A. Yes, sir.

Q. And you were a day watchman or a night watchman?

A. Day watchman.

Q. And when you came to enter the premises who

had to leave you in? Were you able to go in without anyone's permission?

A. No, the sit-downers were at the gates to leave you in.

Q. And they also left you out?

A. Yes, sir.

Q. Now, while you made your rounds as watchman were you able to make them as freely as you cared to, or were you under any restraint?

A. First week I was left go around by myself, and thereafter I had a man with me.

Q. And was that man one of the sit-downers?

A. Yes, sir, different men, not each the same one every day, but different men.

Q. And when they went with you did they carry anything that you noticed?

A. Well, they carried clubs, and they carried pieces of pipe, and such things like that.

Q. While they accompanied you on your rounds?

A. Yes, sir.

Q. Now, did you actually see any of the machinery being smashed during the period of the sit-down?

A. Well, I saw one on the sixth floor.

Q. Actually being smashed?

A. Well, that was the needle bars, knocking the needles out of the needle bars. I didn't see really the machine being smashed, but just the needle bars.

Q. What was the person doing, and who was the person?

A. William Kline.

Q. Was he one of the sit-downers?

A. Yes, sir.

Q. And what did you see him doing?

A. Well, it was like as if he had a screw driver

in his hand and a hammer, and go over along the tops of the needles, crushing them.

Q. What was the effect of what he was doing on the needles?

A. Well, it twisted all the needles up, instead of being in line the way they should be.

Q. Now, did you ever see Mr. Leader on the premises?

A. Yes, sir.

Q. Do you know him when you see him?

A. Well, I don't know as I would, any more.

Q. You saw him at that time?

A. Yes, sir.

Q. Who else did you see on the premises representing the union?

A. Well, I know Mr. O'Driscoll, and there is two more I don't know, what their names were.

Q. How often did you see O'Driscoll?

A. Well, pretty regular.

Q. Do you recall damage to the machines occurring some time in the forepart of June, around June 10th, some machines being damaged?

A. Well, I never seen any of them being damaged, or anything like that.

Q. Did you see them after they were damaged?

A. Yes, sir.

Q. How soon?

A. Tonight, leaving for home, things were this way,—

Q. What do you mean by "this way"?

A. Why, decent.

Q. Yes.

A. Tomorrow morning I would find, when I was making the first round again, that things were de-

stroyed at places where they were in better condition before.

Q. Now, with reference to the damage in June what did you find destroyed? I mean, just generally speaking, how many machines do you recall?

A. Oh, I wouldn't be able to say. There was lots of them that I seen, but there was one in particular on the fifth floor that had the carrying arms knocked off, and everything else.

Q. And that was during the period of the sit-down strike?

A. Yes, sir.

Q. Now, those same machines that you saw damaged on one day were not damaged the day previously?

A. No, sir.

Q. And when you made your rounds you observed the condition of the machines?

A. Yes, sir, they were right in my line of walk, I couldn't help but notice it.

Q. Therefore, if they were damaged it had to be at night, is that true?

A. Yes, sir.

Q. What else did you see with reference to the silk on the machines, if anything, while making your rounds?

A. Well, the cases on the end of the machine, where the silk was in, it was—looked like it was all unravelled and dragged over the full length of the machine, all over, two of them that I know of.

Q. Did you notice anything else in so far as damage is concerned to the machines or otherwise?

A. Well, I noticed a good bit of damage done around, not just so much to the machines, I noticed

in the office that the desks and things were tore open, and looked as if they were pried open.

Q. Did you have occasion to make rounds after the sit-downers evacuated the place—

A. Yes, sir.

Q. —on June 23rd? Did you notice any additional damage to machines then?

A. No.

Q. What floors did you go on?

A. All of the floors, but I went through the main aisle, I didn't get into the machines.

Q. I see.

A. Several on the third floor that I know of, though.

Q. But you were there merely as a watchman for fire purposes, is that correct?

A. Yes, sir.

Q. And you made your rounds and checked over the clock?

A. Yes, sir.

MR. HIRSCH:

Cross examine.

Cross Examination

BY MR. SYME:

Q. The only machine that you actually saw damaged by a sit-downer was one machine, is that right?

A. Yes, sir.

Q. You didn't see any of the others?

A. That is all I seen.

Q. Did you say anything to the sit-downer?

A. No, no.

Q. You didn't?

A. No, indeed.

Q. Why didn't you?

A. Well, I was alone.

Q. Wasn't he alone?

A. Wouldn't do no good to say anything to anybody that would knock you flat on the floor right afterward, would it?

Q. Was he alone?

A. Me?

Q. Was he alone?

A. Oh, no, there was two others with him.

Q. Do you know the two others?

A. And several more running over the floors.

Q. Do you know the others?

A. No, I wouldn't know them.

Q. You don't know the others?

A. I couldn't place them now.

Q. Was this Kline a former employee—or, an employee of the Apex Hosiery Company?

A. Oh, yes.

Q. You knew him as an employee. You didn't know whether he was a member of the union or not, did you?

A. Oh, no, I didn't know who was members of the union.

Q. How often did you make your rounds around the plant?

A. Five times a day.

Q. Five times a day. After you left the plant you didn't know whether anybody might come in aside from the sit-downers, there might be other people coming into the plant, isn't that right?

A. Oh, I knew nothing about after I left.

Q. Yes, so that when you say you would leave the machines in one condition the night before and

come back the next morning and find them in a different condition, you don't know who was responsible—

A. Oh, no.

Q. —for that different condition? That is all. Just one minute.

You have testified to the fact that you saw Leader in the plant?

A. Yes, sir.

Q. When did you see him?

A. Oh, I couldn't say, maybe two or three weeks after the strike was on.

Q. Two or three weeks after the strike. How did you know it was Leader?

A. I couldn't help it, they were all applauding and cheering, standing up on top of tables and everything, making a big noise, I couldn't help but hear it.

Q. That was about two or three weeks after that. How long did Leader stay?

A. Oh, I don't know, I never mixed with them much, never bothered with them much, while I was going there, that is all I seen.

Q. You don't know what Leader said,—

A. No.

Q. —do you?

A. I do know that he said, though, that they should go to work and stick there and fight it out with Mr. Struve, that I know. I heard that much when I was passing by.

Q. About what time was that?

A. Two o'clock in the afternoon.

Q. Two o'clock in the afternoon, and then you left, and you don't know how long he stayed, is that right?

A. No, I went down to the other end and stayed until I would start again.

Q. Yes.

A. I went and made a round this hour, and the other man made a round the next hour.

Q. No, but I mean, how long did Leader stay after that?

A. Oh, I don't know, he was in quite a while.

Q. Did you see him again after that?

A. Yes, sir.

Q. When was that?

A. Oh, I couldn't tell you—while the strike was on.

Q. While the strike was on. Did you see him again?

A. And then after the strike was settled he came to the gate entrance when I was leaving.

Q. And that was after the strike was over?

A. Well, I don't know as it was over. They didn't start to work yet, but the men were outside.

Q. Yes, but the men were outside and the people were—there were no sit-downers any more, isn't that right? All in all, then, you saw Leader in the plant during the period of the strike twice, is that right?

A. Well, I would say three times, anyhow.

Q. When did you see him again?

A. After he come in and had a confab with Mr. Struve.

Q. Yes.

A. That is all I seen of him.

MR. SYME:

That is all.

JOSEPH SMITH, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Smith, you are an employee of the Apex Hosiery Company?

A. Yes, sir.

Q. For how many years?

A. Going on ten years.

Q. And prior to May 6th what was your position?

A. Cleaning gang foreman.

Q. And after May 6th what was your job?

A. Watching the third, fourth, fifth and sixth floors in case of fire.

Q. You were a fire watchman, so to speak?

A. Yes.

Q. And were you there at night or during the day?

A. During the day.

Q. Were you there when the crowd broke in on May 6th?

A. I was.

Q. Did you see William Leader, the president of the union?

A. Yes.

Q. Where did you see him?

A. Standing on top of the table in the wareroom on the first floor.

Q. What was he doing?

A. Why, he was addressing the crowd.

Q. I show you a photograph which has been offered in evidence as Plaintiff's Exhibit 8 and ask

whether or not your picture appears in that photograph, and if so, where.

(The witness examined the photograph.)

A. Right here (indicating).

MR. HIRSCH:

I will put the letter "S" on his white shirt.

BY MR. HIRSCH:

Q. Where I placed the "S", that is your picture,—

A. Yes.

Q. —is that correct?

A. That is it.

MR. HIRSCH:

Just so when you look at this picture, that is the individual, where the "S" is.

(Exhibit P-8 was shown to the jury.)

BY MR. HIRSCH:

Q. What happened to you on May 6th?

A. Why, when the crowd broke in I cut down the steps to go down to the office, and they were all surging around me, everything was mixed up, I was hit in the leg.

Q. Did it cripple you in any way?

A. I had a lump about two weeks afterwards.

MR. SIMONS:

If Your Honor please, I think we have gone into that. That is not—

THE COURT:

Yes, all right

MR. SIMONS:

It has nothing to do with the facts in this case.

BY MR. HIRSCH:

Q. Did you hear Leader make any statement that day when you were in the wareroom?

A. Yes.

Q. And to whom did he make it, the people that were gathered around there?

A. The people that was gathered around.

Q. At that time was he up on the table?

A. He was standing up on the table.

Q. What do you recall hearing him say, if anything?

MR. SYME:

Your Honor, if it is a matter of expediting this thing I am willing to stipulate that Leader was there and that Leader made a statement to the people. It has been testified to by other witnesses.

MR. HIRSCH:

If he will agree that this man's testimony would be the same as Miss Dorwart's, if he testified, I will agree to let it go at that.

THE COURT:

Well, ask him one question—

BY THE COURT:

Q. What did you hear Leader say?

A. Why, I heard him say that the union had taken possession of the place and they wouldn't sign up until it was a closed shop.

Q. All right.

A. And they put a man by the name of Bill Etter as chairman, and the union was going to bring in cots and eats.

BY MR. HIRSCH:

Q. Now, then, following the commencement of this sit-down, and coming down to the month of June, when you made your rounds did you find any damage to the machinery on any particular date that you recall?

A. Why, I was there early in June, I guess it was June the 10th.

Q. And what did you find on that day?

A. Two footers were damaged, the needle bars, and twenty-eight leggers, on the fourth floor.

Q. Where were the footers located?

A. Right near the entrance of the door on the third floor.

Q. And the leggers?

A. They were scattered all around on the fourth.

Q. And they were damaged?

A. They were damaged.

Q. Were they damaged in a manner that would have prevented them from being operated?

A. Oh, they couldn't operate under no condition.

Q. Were they damaged the day before when you made rounds on the same floors?

A. No, I didn't see them.

Q. Now, after the sit-downers took possession of the property did you have any trouble getting in and out when you came there each day to work?

A. Well, I had to wait until I got in. There is one day I had trouble, they wouldn't let me in.

Q. Who wouldn't?

A. Why, the men that had possession of the keys at the door. It seemed that somebody had been oiling the needle bars up, and it was blamed on me, and they were going to keep me out for doing that, but it was finally passed, they had a meeting, and they left me in at the office, and from then on I had two men and one man going around with me at all times making the rounds.

Q. And what did they have with them?

A. They generally had a stick or a piece of pipe with them.

Q. In making your rounds did you ever see any of the sit-downers taking care of the machines and trying to keep them in good state of repair?

A. No, I never did.

Q. Now, what was the condition of the broken windows during this period? I mean, were they repaired during the period the sit-downers were on the premises, or were they left in their damaged state?

A. They were left the way they were.

Q. And the windows that were broken on May 6th remained broken throughout the sit-down strike?

A. Yes.

Q. And as a result of that, what, if anything, did you notice happen to machines when you were making your rounds?

A. Why, it was always damp and rusty.

MR. HIRSCH:

Cross examine.

BY THE COURT:

Q. Were you told by the men in the plant not to fix the machines?

A. They told me—the sit-downers told me to keep my hands off of everything. I wasn't even allowed to wipe up a little pool of oil, which I generally do.

THE COURT:

All right.

Cross Examination

BY MR. SYME:

Q. When you say the sit-downers, who among the sit-downers, who told you?

A. The sit-downers that were in the mill.

Q. Well, who,—

A. Oh, I don't know their names.

Q. —particularly? You know all these men, don't you?

A. I know them by their faces. I don't know all their names.

Q. Well, can you identify who among them? You say you have been working for Apex for ten years, and they are all Apex employees; don't you know them by name?

A. I know their faces. There is plenty of men I don't know their names, I know their faces.

Q. You say the man generally had a stick and a bar. Was the same man following you all the time?

A. No.

Q. Different men?

A. Different men.

Q. And you mean to say that before a man would start following you he would pick up a stick or pick up a bar and then he would go with you, is that right?

A. Well, as a general rule they had a stick or a bar with them, or a piece of pipe.

Q. Pick up a piece of pipe or a stick or a bar, and otherwise he wouldn't move to follow you, is that it?

A. That was, yes.

Q. How many men followed you at one time?

A. One and two times—one and two of them at all times.

Q. One and two, and two of them would go at the same time, and they would have a stick and a bar or a pipe, is that it?

A. Yes, they would have a stick and a bar or pipe.

Q. You weren't the machine fixer, were you?

A. No.

Q. You aren't a machinist, you aren't qualified to repair machines, are you?

A. Oh, no.

Q. It wasn't your duty or obligation to look after machinery, was it?

A. I could have oiled them up.

Q. Yes, but that is not your obligation, you are essentially a watchman, isn't that right?

A. Yes.

MR. SYME:

That is all.

MR. HIRSCH:

Now, for the purpose of saving time, if Your Honor please, with the agreement of counsel for the defendants, I will read into the record the names of other watchmen who if called would testify to a generally similar effect, without admitting that they would testify to the speech that this particular witness heard Leader make.

THE COURT:

Well, as I understand it from what you said before we came into court, they would testify that they were permitted to come upon the premises for the purpose of their duties as watchmen, but were at all times followed and accompanied by members of the sit-down body or the men who were in the plant, and that is all, they didn't have free egress and ingress.

MR. HIRSCH:

That is right, couldn't get in or out without the sit-downers.

MR. SYME:

I will stipulate that they would testify as to that.

THE COURT:

Yes.

MR. SYME:

Subject, of course, to a defense.

MR. HIRSCH:

May I put these names on the record: Carl Keufhus, Fritz Keufhus, Michael Kronby, Gottlieb Kleinknecht.

Herbert Hahn, will you come forward, please?

HERBERT HAHN, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. You are employed by the Apex Hosiery Company, Mr. Hahn?

A. Yes, sir.

Q. And for how many years have you been employed by that company?

A. Well, since 1921.

Q. And what is your position there?

A. Chief engineer.

Q. And were you chief engineer on May 6th, 1937?

A. I was.

Q. And did you continue as chief engineer during the period of the sit-down strike?

A. I did.

Q. It was your duty to keep the boilers going in order that the pressure would be in the mains for fire protection purposes, was it not?

A. Yes, sir, that is right.

Q. Was any of the machinery being operated during the period—

A. No.

Q. —of the sit-down strike?

A. No.

Q. And while you were there, were you there every day?

A. Every day.

Q. And was the company able to ship finished merchandise—

A. No.

Q. —during the period of the sit-down?

A. No.

Q. Now, where is your office located with reference to the back or side of the building?

A. My place is on the back, on Luzerne Street, on Luzerne—or, not Luzerne, on Rising Sun, excuse me, on Rising Sun Avenue.

Q. And the yard which has been referred to in the testimony of other witnesses, where the sit-downers played ball, is just outside your office?

A. Just right outside there, yes, all the way to Luzerne Street it runs.

Q. Now, you were in the plant on May 6th when the mob broke in?

A. Yes, yes.

MR. HIRSCH:

And I suppose Mr. Syme will agree that as to those details his testimony would be similar to other witnesses, and I will pass that by. Is that right?

MR. SYME:

That is all right.

BY MR. HIRSCH:

Q. Now, prior to May 6th who had charge of the back gate?

A. The sit-downers.

Q. No, prior to May 6th.

A. Oh, prior, before that, fellow by the name of Bill Matten and me. See, I look after it while he was away, during the day.

Q. Now, after May 6th and during the period of the sit-down strike was this Billie Matten or yourself, were either of you in charge of the back gate?

A. No, we were relieved of it altogether, because they even put their own locks on.

Q. Who put their own locks on?

A. The sit-downers.

Q. Did you have a key to those locks?

A. No, positively not.

Q. And prior to May 6th did you have a key to the locks?

A. No.

Q. Prior to May 6th; before May 6th.

A. Oh, yes, before I did, yes. Yes, right after that, it was no good, there was a different lock on.

Q. When you came to the mill each day who let you in?

A. Why, the sit-downers, but I had an awful time getting in, always, they would go through my lunch, look what I had, go through my clothes, and when I went out they done the same thing, but I managed to get in all right, Mr. Hirsch.

Q. Did you observe where the sit-downers slept while they were in the premises?

A. No, that I couldn't say, no. See, I was in my own place, I didn't bother through the mill.

Q. What about food for the sit-downers; did you ever see that?

A. Oh, that come in on Rising Sun Lane.

Q. That was through your office?

A. No, not through my office, through that gate next to my place.

Q. Could you see it come in?

A. Oh, very easily, yes.

Q. How often?

A. Oh, about three times a day.

Q. Now, during the period of the sit-down strike, while the sit-downers were on the property, did the

management or the officers of the company, as far as you could see, have anything to say about the mill? Were they in the mill?

A. What do you mean, when the sit-down was?

Q. Yes.

A. Positively not.

Q. Who was in complete charge?

A. Why, the sit-downers.

Q. Now, directing your attention to the question of smashed machinery on the property, what, if anything, did you ever hear while you were on the property about that?

A. Well, I will tell you, one time I overheard a remark—

MR. SIMONS:

Now, wait, if Your Honor please, I don't know what is following, but that is certainly going into some hearsay testimony.

MR. HIRSCH:

I will first—

MR. SIMONS:

I think that is objectionable.

MR. HIRSCH:

I will first show from whom these remarks came.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Who did you hear? Don't tell us what you heard, yet,—

A. No.

Q. —from whom did you hear whatever you are going to relate?

A. From the sit-downers.

Q. How many of them?

A. Oh, a whole bunch out there, I couldn't tell you who they were or anything else.

Q. Now, when you say "sit-downers", were they men whom you saw on the property—

A. On the property.

Q. —all the time?

A. Positively, right in the yard, right by my place there.

Q. And prior to this time when you heard the conversation or statement that you are going to make—

A. Yes.

Q. —were they on the property?

A. They were on the property, positively.

Q. And afterwards, too?

A. And afterwards, too.

Q. And you are able to identify them as sit-down strikers.

A. Oh, yes, yes, that I am.

MR. HIRSCH:

Well, now, before you make any statement,—

THE WITNESS:

Yes.

MR. HIRSCH:

—because I think the witness has now sufficiently identified the persons to permit him to relate what he heard them say, the question of naming the persons is unimportant if you show the capacity of the persons, who they were, or

to what group they belonged. Now, I admit that if this conversation was outside the mill with four unknown persons it would be different, but he identifies them as being in the mill, and it will directly concern something that happened in the mill.

MR. SIMONS:

Well, I object to that, if Your Honor please. I don't know who these persons were. I don't know what this witness is going to testify to, or what they have said, but if it is a question of finding the defendants in this case I think that you will have to show something more than there merely being sit-downers, and it is also a question whether they had been all the time, if there had been all this coming in or going out. I don't know what the procedure was.

THE COURT:

I don't know what the remark was. I guess we will have to—

MR. SIMONS:

I don't either. That is the reason I am objecting now, before it gets to the record.

THE COURT:

If you want to make an offer at side bar I can rule more intelligently. I don't know.

MR. HIRSCH:

All right, will you come up?

(The following occurred at side bar:

MR. HIRSCH:

I offer to prove by this witness that the sit-downers substantially said the following—

THE COURT:

All right, go ahead.

MR. HIRSCH:

—"If we can't work, we are going to smash these machines".

THE COURT:

What?

MR. HIRSCH:

"If we can't work, we are going to smash these machines." Now, I submit, Judge Kirkpatrick, that these people, were the agents of the union and in possession of the place, and their remark, therefore, would bind the union.

MR. SIMONS:

No, I don't think that you can merely because an agent will take it upon himself to do that, say something, that you can bind the principal with it—

THE COURT:

Do you object to it?

MR. SIMONS:

I certainly do.

THE COURT:

I will sustain the objection.)

BY MR. HIRSCH:

Q. Do you know Mr. O'Driscoll, or Mr. Leo Driscoll, when you see him?

A. I know him when I see him, yes.

Q. Is he in the court room?

A. Yes, right down there (indicating).

Q. Did you ever see him around the plant of the Apex Hosiery during the sit-down?

A. Saw him there every day, I suppose every day.

MR. HIRSCH:

Cross-examine.

MR. SYME:

No questions.

MR. HIRSCH:

No questions. Thank you, Mr. Hahn.

FREDERICK W. KOELLE, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Koelle, you are an employee of the Apex Hosiery Company?

A. Yes, sir.

Q. And for how many years have you been an employee of that company?

A. Since 1920.

Q. And what is your position with the company?

A. Paymaster.

Q. And as paymaster have you come in contact with the employees?

A. Yes, sir.

Q. And do you know most of the employees of Apex on sight if not by name?

A. Yes, sir.

Q. Have you been in court when other witnesses have testified to the events that occurred prior to and on May 6th, 1937?

A. Yes, sir.

Q. Did you see Mr. Leader on May 6th, 1937?

A. Yes, sir.

Q. Where?

A. In front of the Apex, at the entrance of the Apex.

Q. Was this prior to the time the crowd broke in?

A. Yes, sir.

Q. And what, if anything, did you see him do or hear him say?

A. He was knocking on the door wanting to be admitted into the office, and after that I heard him declare a strike and a sit-down.

Q. And then what happened?

A. Bricks began to fly, and general confusion after that.

Q. And your testimony along the lines as to what happened after that would be similar to the testimony of other witnesses—

A. Yes, sir.

Q. —if you were asked. I show you one of the photographs that has already been offered in evidence as Plaintiff's Exhibit number 2, in which there appears to be overturned desks and papers strewn about the floor, and one person in the photograph. Whose photograph is that?

(The witness examined the photograph.)

A. That is myself.

BY MR. HIRSCH:

Q. Now, after the place had been broken into did you see William Leader?

A. I did, I saw he and Mr. Syme come out of Mr. Meyer's office and walk out into the wareroom.

MR. HIRSCH:

I think at that time, if Your Honor please, I would like to make a statement, in fairness to Mr. Syme, who is trying this case against me. The references by the witness to Mr. Syme being there—it is admitted, I think Mr. Syme admits that he was on the property, but it is not our case, we are not proving, nor do we intend to show, nor do we claim that Mr. Syme was outside the mill before the mill was broken into—

THE COURT:

All right.

MR. HIRSCH:

—and that he participated in the breaking in. Our information is that Mr. Syme was called up at his office after the mill was broken into and told to come up there, possibly for the purpose of trying to negotiate an agreement or otherwise, and he came on the property as far as we know, after the mill had been broken in.

THE COURT:

All right.

MR. HIRSCH:

I say that—

THE COURT:

Well, that is correct, Mr. Syme, is it?

MR. SYME:

Yes, that is true, I was called by my client and informed that there were several arrests—

THE COURT:

Yes.

MR. SYME:

—and that there was a possibility of a conference, to which Mr. Leader will testify. That is why I haven't objected,—

THE COURT:

All right.

MR. SYME:

—although I appreciate the courtesy of Mr. Hirsch in making that statement.

THE COURT:

All right, it is a very proper statement to make.

BY MR. HIRSCH:

Q. Now, did you see the sit-downers after they took possession of the property?

A. Yes, sir.

Q. How often were you up there, and for what purpose?

A. I was there the full day of May 7th, from around half past eight in the morning to five o'clock at night. I was there the following day from half past seven to twelve. At that time our office was located at Fourth and Green, the Integrity Trust, and for payroll records, Social Security cards, and

so forth, I had to make several trips up to the mill, to get those records.

Q. And you saw the sit-downers on those occasions?

A. Yes, sir.

Q. Approximately how many were there in the plant?

A. About 175.

Q. And did you recognize them?

A. Yes, sir.

Q. Were they Apex employees?

A. Yes, sir.

Q. Without doing so, could you name them, or a number of them?

A. I could name some of them, yes.

Q. Would you be able to recognize them, if—

A. I think so.

Q. —necessary?

A. I think so.

Q. Now, referring your mind back to May 6th, 1937, did you see Mr. Leader with the sit-downers?

A. No, sir.

Q. Did you see the cots or blankets that have been referred to?

A. I saw cots and blankets brought in on the Luzerne Street entrance.

Q. When was that, on May 6th?

MR. SYME:

Your Honor, I don't want to object,—

A. About six o'clock.

MR. SYME:

—but it is all cumulative.

MR. HIRSCH:

All right.

MR. SYME:

It has all been testified to, and in line with our conversation I don't think it is necessary.

BY MR. HIRSCH:

Q. Was Mr. Leader still on the premises when the cots and blankets were being brought in?

A. That I don't know.

Q. Now, when after May 6th did you go on the property?

A. Friday, the day following.

Q. And did you see Leader there on that day?

A. I did.

Q. Under what circumstances? What transpired on that day?

A. Mr. Steeple and I were told to go in the next day to handle any telephone calls, in fact, the whole office force went in, the rest of them were sent home, and Mr. Steeple and myself were asked to stay there to handle any telephone calls that would come in from employees asking various questions, and so forth, which we did. Around ten o'clock in the morning, I think it was, it was mid-morning, Mr. Stout, who had charge of the—of the place there the night before, came in and said that he would like to put a call through to Mr. Leader.

Q. Do you know his position in the union?

A. Well, I don't know his exact position. I think he is an organizer, or was at that time.

Q. Go ahead.

A. He told me that he couldn't control the boys out in the mill and he wanted to talk to Mr. Leader and have him come up. Mr. Stout at that time, we

got the telephone call through to the union, and Mr. Leader I think was on there and—

MR. SIMONS:

If Your Honor please, I think the conversation, the telephone conversation, would be objectionable.

THE COURT:

Well, you can tell what you heard Stout say.

MR. HIRSCH:

Well, we will go further than that, if the witness is permitted. The witness talked to him himself on the phone.

MR. SIMONS:

Well, I don't know that.

A. (Continued) I asked Mr. Stout whether he had a contact with Leader, and Mr. Stout told me that Mr. Leader didn't have any time to come up, or to that effect, and I said, "Well, would it be any good if I talked to Leader?", and he says, "Yes, go ahead", so I talked to Mr. Leader and told him that—what Mr. Stout had said, and asked him to come up.

BY MR. HIRSCH:

Q. Did he?

A. He did.

Q. That was on May 7th?

A. That was on May 7th, that was on Friday, yes, sir. He came in and went out in the wareroom.

Q. Who was out in the wareroom?

A. Well, the sit-downers were out there. Of course, I stayed in the office.

Q. Now, did you personally observe where the sit-downers were sleeping?

A. They were sleeping all over the mill. I saw some in between the machines and some at the exit doors. We had understood that they wouldn't go above the third floor at that time, but I found some of them on the fifth and the sixth.

Q. What other representatives of the union did you find or see on the premises of Apex during the period of the sit-down strike when you visited the plant?

A. Well, Mr. Stout, as I said before. Mr. Leo Driscoll was there every time.

Q. That is the gentleman—

A. Every time I came up there, anyhow.

Q. That is the gentleman here (indicating)?

A. That is the chap sitting on the first row.

Q. Now, what, if anything, did you notice about the locks on the various entrances to the place?

THE COURT:

Oh, that has been proved so many times.

MR. HIRSCH:

All right.

BY MR. HIRSCH:

Q. Did you sign any kind of a card on May 6th, 1937?

A. I did.

Q. Was the card which you signed similar to the card, Plaintiff's Exhibit number 9, which I show you?

(The witness examined the card.)

A. That was the card I signed.

BY MR. HIRSCH:

Q. Did you sign that willingly or unwillingly?

A. Unwillingly.

Q. Was that signed when the crowd was on the premises?

A. Yes, sir, directly after the bunch of us come from the sixth floor, as was testified this morning.

Q. And what happened to the card after you signed it?

A. Well, as we come down the steps I met this Bill Etter. Of course, he is an employee—

Q. Oh, I meant to ask you, who solicited the—

A. Mr. Etter.

Q. He was the one who asked you?

A. He handed me the card and said it had to be signed.

Q. And who was William Etter insofar as the sit-down strike was concerned?

A. Well,—

Q. After it got under way what was his place in the strike?

A. I know this, that whenever I contacted the mill, that is, when I was sent up to get additional records, I always had to contact Mr. Etter as chairman of the shop, or chairman of the sit-down, whatever you want to call it.

Q. And it was this same person who insisted that you sign this pledge card, Plaintiff's Exhibit number 9?

A. Yes, in fact, I only put my first name, "Fred" on it, and he says, "Come on, Fred, sign it all, we know you."

Q. And did he take it away with him after you signed it?

A. He did.

MR. HIRSCH:

Cross examine.

MR. SYME:

No questions.

THE COURT:

We will recess for ten minutes.

(Recess at 3:20 o'clock P. M.)

LEO O'DRISCOLL, having been duly sworn, was
examined and testified as follows:

BY MR. HIRSCH:

Q. You are a member of the defendant union,
and have been for a number of years, are you not?

A. Yes, sir.

MR. HIRSCH:

I call this witness, therefore, as for cross
examination.

Cross Examination

BY MR. HIRSCH:

Q. You have been a member for fifteen years?

A. Yes, sir.

Q. You recall giving a deposition in my office
pursuant to the rules of this court some time in
December of 1938?

A. Yes, sir.

Q. I am correct, am I not, in saying that you

testified that you were one of the union organizers seeking to enroll employees of the Apex Company, and that that was your job?

A. Not the Apex Company.

Q. But seeking to enroll members?

A. Member of any company—

Q. Including Apex?

A. —making hosiery.

Q. Including Apex?

A. Including Apex.

Q. I asked you at that time, and see if you recall it, the following question:

“Q. But particularly, you were one of the union organizers seeking to enroll in the membership of your Union, employees of the Apex Hosiery Company?”, and you answered,

“A. That was my job.”

A. As an organizer I was to organize any open shop that I could collect membership.

Q. But you were put in charge, or, at least, you were designated as an organizer for the Apex shop?

A. Not in charge—an organizer.

Q. But you were an organizer at the Apex shop?

A. Correct.

Q. Now, in addition to the solicitation of membership you also participated in various conferences that took place between the union representatives and management during the period May 6th down to July 29th, 1937?

A. As an observer.

Q. Isn't it a fact that you attended those conferences as a representative of the union and that you so testified?

A. As an organizer and an observer.

Q. I read you the following question and answer which you gave—page 51—and ask whether or not this is correct, when you so state in your deposition under oath on December 2nd, 1938:

“Q. And you attended these conferences as a representative of your union, together with Mr. Leader?”

“A. As a representative, and as an observer, to know just what the plans of settlement were for the benefit and information of anybody wanting to know.”

A. Well, that is more or less what I mean now. I mean to say, that is what I meant at that time.

Q. What you said now is what you mean to say now?

A. That is right.

Q. All right. You were also a trustee of the union, were you not?

A. I didn't serve as a trustee while holding the organizer's position.

Q. You had served as a trustee of the union?

A. Previous to the—in fact, I was an organizer and a trustee at that particular time, but not functioning as a trustee.

Q. Now, a trustee is a person designated by the union membership to represent it in the distribution of strike benefits and funds to persons who are on strike in the various mills in Philadelphia, is that substantially correct?

A. A trustee is elected by our organization, but where the distribution of funds, in the case of strikes or anything that may arise, to where funds

are to be spent, usually trustees, being responsible for funds, are placed in charge of the expenses.

Q. And the trustee is given a lump sum of money to distribute among the strikers of a particular mill in such amounts as he sees fit, wasn't that your testimony?

A. No.

MR. SYME:

Your Honor, I object. Mr. O'Driscoll has testified to the fact that he was not a trustee during the period; he was an organizer.

THE COURT:

He said he was a trustee but not functioning as such. I don't know what that means.

MR. SYME:

Well,—

THE COURT:

It doesn't matter. He was a trustee at one time. He knows what trustees' duties are. That is all he is being asked now.

MR. SYME:

There is no doubt of that. The only thing is, I don't see how a trustee becomes relevant insofar as Mr. Driscoll is concerned if he wasn't functioning as one.

THE COURT:

Well, I don't know, but Mr. Hirsch is only asking him what the general function of a trustee is. He is competent to answer that.

MR. SYME:

I object to the line of examination because it is irrelevant.

THE COURT:

I will overrule the objection.

BY MR. HIRSCH:

Q. Was one of the general functions of a trustee the distribution of strike benefits on behalf of the union?

A. Strike benefits were usually—for instance, when a strike was called, past acts of our organization being as to where we assess ourselves whatever percentage that the membership deem necessary, and it is divided in proportions, depending on what benefits may be required within the strike.

BY THE COURT:

Q. Well, who decides that?

A. The membership usually makes the assessment, maybe one per cent, or two per cent, whatever it may be. The fund is turned over to the trustees, it is turned over in banking form, and we draw checks weekly at—sometimes the designation of the membership, they decide what the group should get; other times it was left to the discretion of the trustees.

THE COURT:

All right.

BY MR. HIRSCH:

Q. But the trustees did the actual distribution of the funds, they were the ones who distributed the money after the union or the trustees had decided

how much each person was to get as a strike benefit?

A. That is right.

Q. Now, it is a fact, is it not, that strike benefits were paid by your union to the sit-down strikers at the Apex plant?

A. We didn't recognize it as strike benefits. We recognized it as a form of relief.

Q. Call it what you will, payments of money were made by your union to the sit-down strikers on the Apex plant during the period of the strike, were they not?

A. Correct.

BY THE COURT:

Q. From the union funds?

A. From the union.

BY MR. HIRSCH:

Q. And I believe you testified that the trustees would keep records of the persons to whom these benefits were paid, and would get receipts from them?

A. That is right.

MR. HIRSCH:

Will the union, pursuant to the subpoena that was delivered, produce the receipts of the various sit-down strikers at the Apex? Do you have them?

MR. SIMONS:

I think we explained to you, Mr. Hirsch, that we do not have receipts. You have gone through all the records and have gotten all the matters that were material to this issue. You

have gone through all our books and records and had your accountant there checking over the records.

BY THE COURT:

Q. Before you get that, generally speaking, strike benefits are disbursed in the form of checks?

A. No, one check is made out for a lump sum and usually divided in the amount of people that we have.

Q. Well, but, now,—

A. For instance,—

Q. —any individual man, what does he get, does he get cash?

A. Cash, that is right.

Q. And he will get it from one of the trustees?

A. From one of the trustees.

Q. And is that the situation with regard to these payments to the sit-down strikers?

A. That is right.

Q. They were paid in cash?

A. Paid in cash.

MR. HIRSCH:

Well, while we are on that point, there may be a little more continuity; will the union produce or permit me to use photostats of vouchers of account number 620, which in the union records was known as direct strikers payroll?

MR. SIMONS:

If Your Honor please, we are trying to get to some matter of hastening the presentation of the evidence. May we see you at side bar on this thing?

THE COURT:

Yes, surely.

(Discussion at side bar.)

MR. HIRSCH:

I offer in evidence at this time as Plaintiff's Exhibit number 10, twenty photostatic copies of vouchers which counsel for the defendants admits were made from the original vouchers in the files of the hosiery workers' union, pursuant to an order of court permitting us, in accordance with the rules of court, to examine the union's books and records. I offer these exhibits as one exhibit, but there are twenty vouchers in them, and it is agreed by counsel for the defendants that these vouchers reflect or show the periodical payments subsequent to May 6th, 1937 to employees of the Apex Hosiery Company, which payments are both during and subsequent to the sit-down strike; one voucher in particular, that dated June 18, 1937, indicating on its face that the total amount of the check was \$3,131.00,—

THE COURT:

There is no reason why you can't hand that to the jury.

MR. HIRSCH:

—\$1090.00 of which was to sit-down strikers, and \$2041.00 was to outside pickets. I draw your particular attention to that voucher, and you may look at the others; twenty-one vouchers, make that twenty-one.

(The vouchers were shown to the jury.)

THE COURT:

All right.

MR. HIRSCH:

That is all.

THE COURT:

Maybe the other side wants to ask—have you anything?

MR. SYME:

No questions.

THE COURT:

All right.

MR. HIRSCH:

It is agreed—I believe Mr. Simons will concur—that these vouchers are made simultaneously with the typing of the check, and represent a duplicate copy of the check insofar as the name of the payee is concerned and the date and the amount, and at the bottom of the voucher appears the purpose for which that check was drawn. Is that agreed?

MR. SYME:

I told you we will agree to the fact that the union did pay strike benefits to the sit-downers.

MR. HIRSCH:

Now, I am talking about the vouchers in general, how they are made up.

MR. SYME:

That is right.

MR. HIRSCH:

Is that right?

MR. SYME:

Yes.

(Photostatic copy of voucher dated June 5, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$4211.50, was marked Exhibit P-10-a.

Photostatic copy of voucher dated June 9, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$1101.00, was marked Exhibit P-10-b.

Photostatic copy of voucher dated June 11, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$1808.50, was marked Exhibit P-10-c.

Photostatic copy of voucher dated June 18, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3131.00, was marked P-10-d.

Photostatic copy of voucher dated June 25, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3182.00, was marked Exhibit P-10-e.

Photostatic copy of voucher dated July 2, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3280.50, was marked Exhibit P-10-f.

Photostatic copy of voucher dated July 9, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3118.00, was marked Exhibit P-10-g.

Photostatic copy of voucher dated July 16, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$2841.50, was marked Exhibit P-10-h.

Photostatic copy of voucher dated July 23, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3200.00, was marked Exhibit P-10-i.

Photostatic copy of voucher dated July 30, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3205.50, was marked Exhibit P-10-j.

Photostatic copy of voucher dated August 6, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3173.00, was marked Exhibit P-10-k.

Photostatic copy of voucher dated August 13, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of George Braig, for \$3091.50, was marked Exhibit P-10-l.

Photostatic copy of voucher dated August 19, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order

of Harry Oehmig, for \$2978.00, was marked Exhibit P-10-m.

Photostatic copy of voucher dated August 27, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$3105.00, was marked Exhibit P-10-n.

Photostatic copy of voucher dated September 3, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$1468.50, was marked Exhibit P-10-o.

Photostatic copy of voucher dated September 9, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$880.50, was marked Exhibit P-10-p.

Photostatic copy of voucher dated September 20, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$1059.00, was marked Exhibit P-10-q.

Photostatic copy of voucher dated September 24, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$426.00, was marked Exhibit P-10-r.

Photostatic copy of voucher dated September 30, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$421.00, was marked Exhibit P-10-s.

Photostatic copy of voucher dated October 7, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$163.50, was marked Exhibit P-10-t.

Photostatic copy of voucher dated October 14, 1937, of the Full Fashioned Hosiery Workers Union of Philadelphia and Vicinity, to the order of Harry Oehmig, for \$213.00, was marked Exhibit P-10-u.

Copies of these vouchers follow:

Exhibit P-10-a

**"FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. June 5, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$4211.50

DOLLARS

Payment authorized By

Extensions checked By

Entered Folio By M. McC

Examined and approved

By /s/ Marge Given

Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Deduc- Net cation of
Date Payment	Rendered	tions Amount Account

STRIKE PAY.

Apex 2307.50

Artercraft 1904.00

\$4211.50

620

✓

NO. 1739

✓

Exhibit P-10-b

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. June 9, 1937

PAY TO THE**ORDER OF**

Harry Oehmig

\$1101.00

DOLLARS

Payment Authorized

By

Extensions Checked

By

Entered Folio

By M. McC

Examined and Approved

By /s/ C. Griesbach

Auditor**For the Board of Trustees**

Purpose Amount

Classifi-

of

as

Deduc-

Net cation of

Date Payment	Rendered	tions Amount Account
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6/9/37 Apex Strike Pay:—

\$1101.00

620

✓

NO. 1794 ✓

Exhibit P-10-c
Exhibit P-10-d

341

Exhibit P-10-c

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. June 11, 1937

PAY TO THE
ORDER OF Harry Oehmig \$1808.50
DOLLARS

Payment Authorized By
Extensions Checked By
Entered Folio By M. McC

Examined and Approved
By /s/ C. Griesbach Auditor

For the Board of Trustees

Purpose Amount Classifi-
of as Deduc- Net cation of
Date Payment Rendered tions Amount Account
6/11/37 Apex Strike Pay

\$1808.50

620

✓

NO. 1795 ✓

Exhibit P-10-d

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. June 18, 1937

PAY TO THE
ORDER OF Harry Oehmig \$3131.00
DOLLARS

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved
 By /s/ C. Griesbach Auditor

For the Board of Trustees

Purpose Amount Classifi-
 of as Deduc- Net cation of
 Date Payment Rendered tions Amount Account

6/18/37 Apex Strike Pay:—

Sit-down strikers	\$1090.00
Outside Pickets	2041.00
	<hr/>
	\$3131.00

620

✓

NO. 1827 ✓

Exhibit P-10-e

**FULL FASHIONED HOSIERY WORKERS
 UNION OF PHILADELPHIA
 AND VICINITY**

PHILADELPHIA, PA. June 25, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$3182.00

DOLLARS

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved

By /s/ C. Griesbach

Auditor

For the Board of Trustees

Exhibit P-10-f

343

Purpose Amount
of as Deduc- Net cation of
Date Payment Rendered tions Amount Account
6/25/37 Apex Strike Pay

\$3182.00

620

NO. 1867 ✓

Exhibit P-10-f

FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY

PHILADELPHIA, PA. July 2, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$3280.50

DOLLARS

Payment Authorized By

Extensions Checked By

Entered Folio By M. McC

Examined and Approved

By /s/ C. Griesbach

Auditor

For the Board of Trustees

Purpose Amount

of as Deduc- Net cation of

Date Payment Rendered tions Amount Account

7/2/37 Apex Strike Pay

\$3280.50

620

NO. 1912 ✓

*Exhibit P-10-g**Exhibit P-10-h***Exhibit P-10-g**

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
• AND VICINITY**

PHILADELPHIA, PA. July 9, 1937

PAY TO THE

**ORDER OF Harry Oehmig \$3118.00
DOLLARS**

Payment Authorized By

Extensions Checked By

Entered Folio By M. McC

Examined and Approved

By /s/ C. Griesbach Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Net cation of
Date Payment	Rendered	tions Amount Account
7/9/37	Apex Strike Pay	

\$3118.00 620

✓

NO. 1952 ✓

Exhibit P-10-h

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. July 16, 1937

PAY TO THE

**ORDER OF Harry Oehmig \$2841.50
DOLLARS**

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved
 By /s/ C. Griesbach Auditor

For the Board of Trustees

Purpose Amount Classifi-
 of as Deduc- Net cation of
 Date Payment Rendered tions Amount Account

Apex Strike Pay 2841.50 620

NO. 1997 ✓

Exhibit P-10-i

**FULL FASHIONED HOSIERY WORKERS
 UNION OF PHILADELPHIA
 AND VICINITY**

PHILADELPHIA, PA. July 23, 1937

**PAY TO THE
 ORDER OF Harry Oehmig \$3200.00
 DOLLARS**

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved
 By /s/ C. Griesbach Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Net cation of
Date Payment	Rendered	tions Amount Account
7/23/37	Apex Strike Pay	
	\$3200.00	620

✓

NO. 2040 ✓

Exhibit P-10-j

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. July 30, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$3205.50

DOLLARS

Payment Authorized

By

Extensions Checked

By

Entered Folio

By M. McC

Examined and Approved

By /s/ C. Griesbach

Auditor

For the Board of Trustees

Purpose Amount

Classifi-

of

as

Deduc-

Net cation of

Date Payment Rendered tions Amount Account

7/30/37 Apex Strike Pay

\$3205.50

620

✓

NO. 2074 ✓

~~Exhibit P-10-k~~
~~Exhibit P-10-l~~

347

Exhibit P-10-k

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. August 6, 1937

**PAY TO THE
ORDER OF Harry Oehmig \$3173.00
DOLLARS**

Payment Authorized By
Extensions Checked By
Entered Folio By M. McC

**Examined and Approved
By /s/ M. Casey Auditor
For the Board of Trustees**

Purpose	Amount	Classifi-
of	as	Deduc- Net cation of
Date Payment	Rendered	tions Amount Account
8/6/37	Apex Strike Pay	
	\$3173.00	620

NO. 2116 ✓

Exhibit P-10-l

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. Aug. 13, 1937

**PAY TO THE
ORDER OF George Braig \$3091.50
DOLLARS**

Exhibit P-10-m

Payment Authorized By
Extensions Checked By
Entered Folio By M. McC

Examined and Approved
By /s/ M. Casey Auditor

For the Board of Trustees

Purpose of Date Payment	Amount as Rendered	Deduc- tions	Net Amount	Classifi- cation of Account
Apex Strike Pay.				

: \$3091.50

620

✓

NO. 2158 ✓

Exhibit P-10-m

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. August 19, 1937

PAY TO THE ORDER OF Harry Oehmig **\$2978.00**
DOLLARS

Payment Authorized By
Extensions Checked By
Entered Folio By M. McC

Examined and Approved -
By /s/ M. Casey Auditor
For the Board of Trustees

Exhibit P-10-n

349

Purpose	Amount	Classifi-
of	as	Deduc- Net cation of
Date Payment Rendered	tions Amount	Account
8/19/37 Apex Strike Pay	\$2978.00	620

✓

NO. 2205 ✓

Exhibit P-10-n

FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY

PHILADELPHIA, PA. August 27, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$3105.00

DOLLARS

Payment Authorized By

Extensions Checked By

Entered Folio By M. McC

Examined and Approved

By /s/ M. Casey

Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Deduc- Net cation of
Date Payment Rendered	tions Amount	Account
8/27/37 Apex Strike Pay	\$3105.00	620

✓

NO. 2244 ✓

Exhibit P-10-o
Exhibit P-10-p

Exhibit P-10-o

**FULL FASHIONED HOSIERY WORKERS
 UNION OF PHILADELPHIA
 AND VICINITY**

PHILADELPHIA, PA. September 3, 1937

PAY TO THE

ORDER OF Harry Oehmig \$1468.50
DOLLARS

Payment Authorized By

Extensions Checked By

Entered Folio By M. McC

Examined and Approved

By /s/ M. Casey

Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Net cation of
Date	Payment	Rendered
9/5/37	Apex Strike Pay	tions Amount Account
	\$1468.50	620

NO. 2288✓

Exhibit P-10-p

**FULL FASHIONED HOSIERY WORKERS
 UNION OF PHILADELPHIA
 AND VICINITY**

PHILADELPHIA, PA. September 9, 1937

PAY TO THE

ORDER OF Harry Oehmig \$880.50
DOLLARS

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved

By /s/ M. Casey Auditor

For the Board of Trustees

Purpose	Amount	Deduc-	Net	Classifi-
of	as	tions	Amount	cation of
Date Payment Rendered				Account
9/9/37 Apex Strike Pay	\$858.50			
Torresdale Add.				
Strike Pay	22.00			
			\$880.50	620

NO. 2335✓

Exhibit P-10-q

**FULL FASHIONED HOSIERY WORKERS
 UNION OF PHILADELPHIA
 AND VICINITY**

PHILADELPHIA, PA. September 20, 1937

PAY TO THE

ORDER OF Harry Oehmig \$1059.00
 DOLLARS

Payment Authorized By
 Extensions Checked By
 Entered Folio By M. McC

Examined and Approved

By M. Casey /s/ Auditor

For the Board of Trustees

Exhibit P-10-r

Purpose of Date Payment	Amount as Rendered	Deduc- tions	Net Amount	Classifi- cation of Account
9/20/37 Apex Strike Pay		\$681.50		
Oswald Strike Pay		269.00		
Rialto Strike Pay		92.00		
3 Lucille Helpers' discrimination Pay		16.50		

 \$1059.00

620

✓

NO. 2385✓

Exhibit P-10-r

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA September 24, 1937

**PAY TO THE
ORDER OF**

Harry Oehmig

\$426.00

DOLLARS

Payment Authorized

By

Extensions Checked

By

Entered Folio

By M. McC

Examined and Approved

By /s/ M. Casey

Auditor

For the Board of Trustees

Exhibit P-10-s

353

Purpose of	Amount	as	Deduc-	Net	Classifi-
Date	Payment	Rendered	tions	Amount	cation of
					Account
9/24/37	Apex Strike Pay				

\$426.00

620

✓

NO. 2422✓

Exhibit P-10-s

FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY

PHILADELPHIA, PA. September 30, 1937

PAY TO THE

ORDER OF

Harry Oehmig

\$421.00

DOLLARS

Payment Authorized

By

Extensions Checked

By

Entered Folio

By M. McC

Examined and Approved

By /s/ Marge Given

Auditor

For the Board of Trustees

Purpose of	Amount	as	Deduc-	Net	Classifi-
Date	Payment	Rendered	tions	Amount	cation of
					Account
9/30/37	Apex Strike Pay				
	Lafayette Strike Pay				

114.00

\$421.00

620

NO. 2462✓

Exhibit P-10-t

Exhibit P-10-u

Exhibit P-10-t

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VIGINITY**

PHILADELPHIA, PA. October 7, 1937

**PAY TO THE
ORDER OF**

Harry Oehmig \$163.50
DOLLARS

Payment Authorized By
Extensions Checked By
Entered Folio By M. McC

Examined and Approved

By /s/ Marge Given

Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Deduc- Net cation of
Date	Payment	Rendered tions Amount Account
10/7/37	Apex Strike Pay	

\$163.50

620✓

NO. 2513✓

Exhibit P-10-u

**FULL FASHIONED HOSIERY WORKERS
UNION OF PHILADELPHIA
AND VICINITY**

PHILADELPHIA, PA. October 14, 1937

**PAY TO THE
ORDER OF**

Harry Oehmig \$213.00
DOLLARS

Harry Oehmig Sworn
Leo O'Driscoll—Cross

355

Payment Authorized By
Extensions Checked By
Entered Folio By

Examined and Approved

By /s/ Marge Given

Auditor

For the Board of Trustees

Purpose	Amount	Classifi-
of	as	Deduc-
Date	Payment	Rendered
		tions
		Amount
		Account

10/14/37	Richardson Strike Pay	\$111.00
----------	-----------------------	----------

	Apex Strike Pay	85.50
--	-----------------	-------

	Crystal Strike Pay (short- age)	16.50
--	------------------------------------	-------

\$215.00 620

✓

NO. 2549✓")

HARRY OEHMIG, sworn.

MR. HIRSCH:

May I withdraw this witness for one moment?
Mr. O'Driscoll, will you take the stand again,
please?

LEO O'DRISCOLL, recalled.

Cross Examination (Continued)

BY MR. HIRSCH:

Q. It is a fact, is it not, Mr. O'Driscoll, that you

were on the premises of the Apex Hosiery Company immediately following the time when the mob of persons broke into the mill on May 6th, 1937?

A. Mr. Leader was invited and I accompanied him.

Q. But you were on the premises?

THE COURT:

Yes.

A. That is right.

BY MR. HIRSCH:

Q. And you were outside before the mob broke in?

A. That is right.

MR. HIRSCH:

That is all, Mr. Oehmig.

HARRY OEHMIG, recalled:

Examination

BY MR. HIRSCH:

Q. Mr. Oehmig, you are the secretary and treasurer of the American Federation of Hosiery Workers, Branch No. 1?

A. That is right.

Q. Yours is a full-time job, is it not?

A. That is right.

Q. And a salaried position with the union?

A. Yes.

MR. HIRSCH:

I call Mr. Oehmig as for cross examination, he being a party-defendant in this case.

Cross Examination

BY MR. HIRSCH:

Q. Do you recall giving a deposition on December 2nd, 1938, pursuant to the Federal rules?

A. Yes, sir.

Q. At that time you testified that your position with the union was that of secretary and treasurer, that you had occupied that position for seven years, is that correct?

A. That is right.

Q. In your position as treasurer of the union one of your duties is to sign checks when funds of the union are drawn for the purpose of making certain payments, is that correct?

A. That is correct.

Q. And I believe you testified that all checks must be signed by you and countersigned by one of the several other officers?

A. That is right.

Q. But in any event, you sign all the checks?

A. That is right.

Q. And the vouchers that are now being used and shown to witnesses, which I show you, are vouchers made simultaneously with the drawing of the check, on the same machine?

THE COURT:

That has just been agreed to.

MR. HIRSCH:

All right.

THE COURT:

Please don't repeat those things.

MR. HIRSCH:

I wanted to show that his name does not appear on it, because his name is on the check, but not the voucher.

THE COURT:

It doesn't matter. They agree those are payments made by the union.

MR. HIRSCH:

All right.

THE COURT:

What more can you possibly get than that?

BY MR. HIRSCH:

Q. Now, then, in 1937 there were a number of sit-down strikes in the City of Philadelphia, were there not?

A. Quite a few.

Q. And during the period of those sit-down strikes your union maintained what is known as a strike kitchen at 46th—

THE COURT:

Well, now, Mr. Hirsch, let's look at this thing in a reasonable manner. If the union paid strike benefits to these men and deducted them in vouchers as sit-down strikers what more can be established by showing that they supplied them with food, or bedding, or anything else, unless

—is it a fact, will the defendant admit that while they were in the plant they were supplied by the union with food? Is that a fact?

MR. SYME:

Yes, we will admit that.

THE COURT:

All right, that is admitted. Now, there isn't any use in going into that.

MR. HIRSCH:

All right.

THE COURT:

Is it also admitted that they were supplied by the union—

MR. SYME:

With cots and bedding?

THE COURT:

—with cots and bedding?

MR. SYME:

Yes, that is admitted.

THE COURT:

That is admitted. Now, is there anything else that you need along that line? I don't see it.

MR. HIRSCH:

Well, may I then offer in evidence—well, I don't need to do this, no. I was going to offer—

THE COURT:

I am sure I am not curtailing your case any way, because all you—

*Harry Oehmig Called on
Cross Examination*

MR. HIRSCH:

Well, may I state of record that we have photostatic copies of the vouchers covering the union's payments for food—

THE COURT:

Oh, yes.

MR. HIRSCH:

—for the strike kitchen that supplied food to the Apex sit-downers, and for payment for the cots and blankets which went in the Apex plant.

THE COURT:

Yes.

MR. HIRSCH:

Is it also admitted that the union paid for the medical services of Dr. Nark, who administered to the sit-down strikers at the Apex plant?

MR. SYME:

Surely.

THE COURT:

Have you got an idea of the total amount paid for food?

MR. HIRSCH:

I have all the vouchers.

THE COURT:

Well, all right, you can put them in later on if you want to. Let it go at that, it is all right.

How long were they in the plant, altogether? What are the facts about that, from the 6th of May to the 27th?

MR. HIRSCH:

23rd of June.

THE COURT:

23rd of June; about ~~six weeks~~, ~~five weeks~~—
let's see, no, about six weeks.

BY MR. HIRSCH:

Q. In addition to yourself as full-time officers of the union there was Mr. William Leader, who was president, and Joseph Burge, who was vice-president?

A. That is right.

Q. And they received a salary for their position?

A. That is right.

Q. Charles Stout you stated also was an organizer for the union during the year 1937, is that correct?

A. That is right.

Q. And he was paid for such services by the union?

A. That is right.

BY THE COURT:

Q. These cots that were taken in there were moved in the day of the strike, were they not? Do you know anything about that?

A. That is right.

Q. And when were they purchased?

A. Why, we purchased them from time to time for different shops, and we kept them in the basement at the union hall. When anyone needed them they were there, at a minute's call.

Q. That is, they were drawn from a store which the union had on hand?

*Harry Oehmig Called on
Cross Examination*

A. Yes, we purchased them in town and they were used in various mills.

Q. Were they used in other mills?

A. That is right.

Q. In other sit-down strikes?

A. That is right.

Q. Yes.

A. And then when they were through with them, why, they were stored away and used in another.

THE COURT:

Yes, I see.

MR. HIRSCH:

Is it also agreed, Mr. Simonis, that the union paid for the removal of two truck loads of rubbish on June 16th from the Apex plant, and which was during the period of the sit-down strike?

THE COURT:

Well, I don't think that is worth bothering about,—

MR. HIRSCH:

All right.

THE COURT:

—anyhow.

BY MR. HIRSCH:

Q. Your union maintained what was known as organization headquarters for the Apex plant on Fifth Street immediately north of Rising Sun Avenue and across the street from the plant, did it not?

A. Yes.

Q. And in connection with that, you paid various expenses for telephones, and so forth?

A. That is right.

Q. Were you at the Apex plant on May 6th, 1937?

A. No.

Q. At any time?

A. (I would say about seven o'clock I passed there, on the way home.

Q. Pardon me?

A. On the way home I passed there.

Q. Did you stop there for a minute?

A. Above, but about a square above it. They wouldn't let you stop, the officers kept you going up.

MR. HIRSCH:

That is all.

(The following occurred at side bar:

MR. HIRSCH:

It is agreed between counsel for the defendants and counsel for the plaintiff that Harry Sundheim, a witness at the trial of the bill in equity for an injunction, held before Judge Kirkpatrick on June 1st, 2nd and 3rd, 1937, is ill and unable to attend this trial. I therefore offer in evidence the following excerpts—

THE COURT:

Why don't you offer the whole thing in evidence?

MR. HIRSCH:

I offer in evidence all his testimony given by him on direct examination at the former trial.

THE COURT:

Well, is it objected to?

MR. SYME:

It is objected to.

THE COURT:

The Court at the present time is of the opinion that it does not come within the exception of testimony at a former trial, because I am not satisfied that the injunction hearing can be considered a former trial on the same issues that are involved in this case, although the parties, of course, were the same. However, I will examine this question and if I come to a different conclusion the offer can be renewed and we will admit the testimony then.)

THE COURT:

I think we will adjourn at this point. There are some matters that counsel want to take up with me in chambers that possibly may result in eliminating some of the testimony and expediting the case, so that we can adjourn now, and be here again at ten o'clock in your places, and please remember the caution I gave you at the outside of this case about not discussing the case.

Adjourned until Wednesday, March 15, 1939,
at ten o'clock A. M.

7

*Harry Oehmig Called on
Cross Examination*

365

Philadelphia, Pa., March 15, 1939

Third Day

Plaintiff's Evidence (Continued)

THE COURT:

We will resume the Apex case.

MR. HIRSCH:

Mr. Oehmig, resume the stand, please.

HARRY OEHMIG, recalled..

Cross Examination (Continued)

BY MR. HIRSCH:

Q. Mr. Oehmig, you were testifying yesterday when we recessed for conferences and otherwise?

A. Yes.

Q. I am correct, am I not, in saying that each member of the union pays a certain amount of dues to the union a week based on a percentage of his weekly earnings?

A. That is right.

Q. And that percentage has varied from time to time?

A. That is right.

Q. It was five per cent at one time?

A. That is right.

Q. And then three?

A. That is right.

MR. SYME:

I object to this, Your Honor. I don't see what relevancy it has to the case at all.

THE COURT:

Oh, it is all right. I will overrule the objection.

BY MR. HIRSCH:

Q. Now, out of dues that are taken from each member or received from each member per week a certain portion of that sum goes to the National Association of which your union is a branch?

A. Yes.

Q. Correct?

A. That is right.

MR. SIMONS:

If Your Honor please, our objection goes to this whole line of questioning.

THE COURT:

I will overrule the objection.

MR. SIMONS:

I say, may we consider it as going to this whole line of question,—

THE COURT:

Oh, yes.

MR. SIMONS:

—so we won't have to object to each question?

THE COURT:

It doesn't matter whether it does or not; anything you want about that. If you have estab-

lished your point it is all right. If you haven't, it doesn't matter. All right.

MR. SIMONS:

I object to this particular question because I don't know what the National Association has to do with the particular local—

THE COURT:

I can't tell yet, but I would say if it hasn't any relevancy it is perfectly harmless. If it has—

MR. HIRSCH:

I have a definite purpose.

THE COURT:

—then we will find it out. I don't know.

BY MR. HIRSCH:

Q. And the National Association publishes what is known as the official organ of the American Federation of Hosiery Workers, and part of the dues that are taken each week from each member of your branch are in payment for that publication, and a copy of that publication is sent to each member of your branch every week by the National Association as the official organ of the union, is it not?

MR. SYME:

I object to that, Your Honor. I mean, we are becoming so remote and so far removed; what the National Association does with the funds, and how the Hosiery Worker operates, if it is the organ of the National Association, has absolutely nothing to do with Branch 1, that is in no way identified or no way associated with it.

*Harry Oehmig Called on
Cross Examination*

THE COURT:

It isn't easy for me to see just how this

MR. HIRSCH:

May I state the reason?

THE COURT:

Yes, surely.

MR. SIMONS:

Make it at side bar, if you will.

THE COURT:

Make it at side bar if it is requested.

(Discussion at side bar.)

THE COURT:

I will strike out all the testimony with regard to the payment, the testimony just given with regard to the payment of dues, but I will permit the witness to state if it is a fact that the paper published by the National Association, "The Hosiery Worker" was automatically sent to every member of the local. Is that correct?

MR. SYME:

That is right.

THE COURT:

So that every member of the local did receive "The Hosiery Worker", regardless of how it was published or who paid for it, or anything of that sort. Now, the rest of the testimony I will strike out.

MR. HIRSCH:

I offer in evidence—

THE COURT:

What is that, a daily?

MR. HIRSCH:

That is a weekly paper.

THE COURT:

Will you leave them here?

MR. HIRSCH:

Well, I want to offer them in evidence.

THE COURT:

All right, offer them in evidence, and then let me see them.

MR. HIRSCH:

I offer them as a plaintiff's exhibit, I make this offer as a single offer, Plaintiff's Exhibit 11; and will you mark each paper 11-a, b, c, d, and so forth,—

MR. SYME:

Your Honor, I object—oh, I am sorry, are you through, Mr. Hirsch?

MR. HIRSCH:

—the issues of "The Hosiery Worker" dated March 5th, March 12th,—

THE COURT:

May, isn't it?

MR. HIRSCH:

These are preliminary matters.

THE COURT:

All right, go ahead.

MR. HIRSCH:

—March 26th, April 2nd, April 9th, April

16th, April 23rd, April 30th, May 14th, May 21st, May 28th, June 11th, June 18th, June 25th, 1937, July 2nd, 1937, July 9th, 1937, and August 6th, 1937, offering the paper particularly as to those parts which have been encircled with a black or red pencil mark, and which specifically refer to sit-down strikes in the City of Philadelphia being conducted by this branch union, the technique that was employed, and also specifically referring to the sit-down strike at the Apex plant.

MR. SYME:

Your Honor, I object to the admissibility of these newspapers in evidence. At the most, Mr. Hirsch doesn't even contend that Branch 1 had anything to do with the editorial policy of the newspaper, or anything, the only thing that Mr. Hirsch contends is that we received that newspaper.

THE COURT:

Well, the Court so understands, and the Court is receiving it in evidence on the statement of counsel that they contain a description and a report of what was going on during the course of the sit-down strike, and it is received merely for the purpose of showing that the members, the individual members of the local union, had knowledge of what was being done.

MR. SYME:

It would be received in the same way as a newspaper would be received,—

THE COURT:

Exactly the same.

MR. SYME:

—isn't that so, Your Honor?

THE COURT:

Same way, exactly.

MR. SYME:

Indicating we were in no way bound by any of the statements made in "The Hosiery Worker".

THE COURT:

I so rule, you are not bound by the statements made. They are not authorized, in other words, by the local union, there is nothing to show that. I am receiving them on the ground of knowledge and notice of the events that were taking place.

MR. HIRSCH:

Now, I also offer the paper of August 6th, 1937 for the specific purpose of showing Leader's statement made to this official organ of the union, and which is repeated here in this paper, pertaining to the Apex contract and the strike that had taken place.

THE COURT:

Well, you can follow that by proof that Leader did authorize that statement or did make it. I have no doubt it is a fact. I will take that subject to proof that he authorized the statement. If they published something that is admissible as against him, at any rate.

MR. HIRSCH:

I also offer the papers for proof of the facts set forth therein pertaining to the activities of

Branch I in Philadelphia, for the further purpose of showing that the members of the union who were members of the Branch in Philadelphia had knowledge of everything that was going on.

THE COURT:

Well, it is received for that purpose.

MR. HIRSCH:

Will you mark these?

(Copies of The Hosiery Worker were marked as follows:

P-11-a, issue of March 5, 1937

P-11-b, issue of March 12, 1937

P-11-c, issue of March 26, 1937

P-11-d, issue of April 2, 1937

P-11-e, issue of April 9, 1937

P-11-f, issue of April 16, 1937

P-11-g, issue of April 23, 1937

P-11-h, issue of April 30, 1937

P-11-i, issue of May 14, 1937

P-11-j, issue of May 21, 1937

P-11-k, issue of May 28, 1937

P-11-l, issue of June 11, 1937

P-11-m, issue of June 18, 1937

P-11-n, issue of June 25, 1937

P-11-o, issue of July 2, 1937

P-11-p, issue of July 9, 1937

P-11-q, issue of August 6, 1937

Copies of the excerpts marked in these exhibits follow:

Exhibit P-11-a

"BR. ONE TO NAME DELEGATES

Philadelphia.—Branch One, American Federation of Hosiery Workers will elect delegates to the Pennsylvania State Federation of Labor Convention, on Friday, March 5 and Monday, March 3 Ballot boxes will be open until 11:30 P. M., each night.

Because of the election, Branch One will hold no meeting this Friday. Five delegates are to be elected.

The list of nominees: Herman Weber, Paul Nothe, Harry Ingram, Harry Casey, Joseph Humes, Casimer Miller, Helen Herman, Earnest Kornfeld, Robert Decker, Joseph Kline, George Hufnagle, Fred Phelps, Leo O'Driscoll, Marie Hughes, Harry Bell, William Leader, Joseph Burge, Otto Lobe, Edmund Ryan, Jr., Leo De Martin, Mary Tomassi, Howard Kirsh, Elwin Rimensnyder has withdrawn his name from the list."

• • • • •

"SIT-DOWN CLOSES WHITEHALL; PACT SOUGHT AT MARTHA

Philadelphia.—A sit-down strike was declared Tuesday afternoon at the Whitehall Knitting Mills, by Branch One, of the American Federation of Hosiery Workers. The strike was called to secure an adjustment in wages up to the union scale, collective bargaining, closed shop, and the check-off.

About 50 per cent of the plant was affected by the strike on the first day, but became 100 per cent effective Wednesday, when all workers, including the dye-house, joined.

The Whitehall is a complete manufacturing unit, including wareroom and boarding, employing about 450 workers. As soon as the strike was declared, equipment was moved into the mill for the strikers—cots, blankets, pillows, radios, and other supplies.

A union kitchen to supply food has been opened near the mill, and a sound truck is broadcasting talks and musical entertainment. There are 200 stay-inners, but somewhat different from the ordinary situation, there is also an outside picket line, making this a double-barreled strike. No supplies or merchandise are entering or leaving the plant.

William Leader, president of Branch One, announced the union is ready to carry on this fight for an indefinite period until it is won.

MARTHA PACT DEMANDED

Branch One, through Leader, presented demands Wednesday to the management of the Martha Silk Hosiery Mills, which include a closed shop contract, check-off, and full union rates and conditions. The company requested sufficient time to have a Board of Directors' meeting and will make its answer to the union on Monday. All indications point to the signature of an agreement with this firm."

"PINOCHLE DECK SHORTAGE IRKS SIT-DOWNERS

Reading, Pa.—A shortage of pinochle decks was the only incident to mar the first days of the current sit-down strikes in the general hosiery walkout of Berks County.

Always assiduous devotees of pinochle, these Pennsylvania Dutch hosiers had their friends and union officials scurrying all around the town for playing cards to carry into the plants.

The workers are in gay mood with Concertinas and banjo serenades, indulged in by the workers inside and those outside the mills. All manner of games are indulged in by the strikers from darts and quoits to checkers and twiddly winks.

As the strike progressed in some shops measures were taken to insure the health of the strikers. At the Nolde and Horst mill in Womelsdorf all the strikers are obliged to line

up in the lot next to the mill twice each day and go through setting up exercises. The man or woman who through laziness seeks to duck exercise is mercilessly kidded.

READING AT READING

Quantities of books, newspapers and magazines were hastily accumulated to carry into the sit downers. Baskets and bundle loads of reading matter were collected from every possible source to keep the voracious sit downers satisfied.

At least once each day a special bulletin issued from union headquarters giving last minute reports is distributed in each mill. This prevents false rumors from getting a start and keeps the strikers constantly on their toes.

Preparations are being made to radio messages to the strikers each day from the local broadcasting station. In each shop the workers have installed radios and victrolas. In one mill special loud speakers are used. Relatives visit the sit-downers as often as possible.

SERVICE OF SUPPLIES

The task of organizing the food supply for the widely scattered mills has kept union officials busy. In some cases the women workers in the mill set up a kitchen on the outside of the shop to prepare food which was handed in through the windows."

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"THE TIDE HAS TURNED

The tide has turned. Things are decidedly looking up for the cause of unionism in the hosiery industry.

The success of the sit-down strikes in Berks County and in Philadelphia has been phenomenal. In Berks County the workers are confident that union agreements will be obtained in the great majority of plants as a result of the stoppage which commenced this week.

The sit-down strike technique has proven to be most effective up to this point and workers are completely confident that they will be quite capable of keeping the struck mills closed down tight as long as is necessary. A new psychological element appears in the situation when the workers are inside the plant looking out. Workers seem to be much more certain that they can keep the mills closed down when they are inside the shop than when they are out on the picket lines looking in at their jobs.

When he is trudging up and down on the streets around the mill, the worker can never rid himself of the fear that some trick will be pulled on him—that deceit or treachery will be attempted. But sitting at his accustomed position in the plant, the worker can see just what is going on and his mind is free from foreboding or doubts.

Moreover, out on the picket line the striker is always subject to attacks from scabs, from paid agents of the boss or the so-called officers

of the law.' Outside the mill the worker can be more readily harmed and intimidated; he can be more easily provoked into violence or disorder. Outside the mill the authorities are always willing to attack a striker; inside the plant if a striker is attacked the property of the manufacturers is liable to be damaged and, therefore, the striker is freer from threat of brutality or assault.

It is very apparent that the real reason that anti-unionists do not like the sit-down strike tactic is just because the use of the method is a guarantee that the strike will be peaceful—as far as the strikers are concerned.

From the standpoint of labor the successful application of the sit-down strike method depends to a great extent on the solidarity of the workers in the group and the self-discipline which has been developed by this unit. A sit-down strike would probably not function very well if the workers were seriously disunited or had had no experience with acting together prior to the strike. In the present state of affairs in the hosiery industry, sit-down strikes appear to be just the right way to win what the workers need and must have.

The amazing and historic advances made by the CIO in steel and elsewhere in the past few days has done much to improve the prospects for all unions in this country.

The American Federation of Hosiery Workers was well advised to throw in its lot with the CIO group and to support this splendid effort

to organize the workers in the basic industries. The victories in General Motors and the Steel drive greatly enhanced the prospects for victories among the hosiery workers in Reading and Philadelphia.

For years the American Federation of Hosiery Workers has preached the necessity for a labor movement which will take the position that there can be no real division among any groups of workers and that those who toil must aid each other under all circumstances. We have done our bit to promote such a movement and now that it is actually becoming a partial reality we find ourselves likely to "cash in" fairly quickly.

The hosiery workers of Berks County and Philadelphia are going to win. When they have achieved union recognition and other objectives these workers will turn around and help the next fellow, hosiery worker or whoever he may be, win a similar victory for himself and for the labor movement and democracy."

Exhibit P-11-b

**"MARTHA SIGNS AS STRIKERS STAY IN
AT WHITEHALL**

The mop-up campaign of Branch One on the non-union hosiery producers in Philadelphia County, is being carried on shop by shop. No manufacturer having contractual relations with

the union is to be affected, this includes those shops formerly in the National Labor Agreement, in which the contract provisions are being automatically carried out."

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"WHITEHALL STRIKERS FIRM

More than 200 strikers at the Whitehall Knitting Mills dug into heaping plates of fried chicken Sunday, sat rapt while the funnies and a feature length movie were unreeled on a screen, and signed: "This sit-down is the life!"

The sit-down was declared on March 2 to secure an adjustment in wages up to the union scale, collective bargaining, closed shop, and the check-off.

The fried chicken was sent in Sunday from the union food kitchen set up by Branch One, of the Federation, near the mill. A sound truck stationed outside the mill enlivens the hours with the latest melodies, forming an accompaniment for community singing by the strikers.

Not only are there sit-downers, but an outside picket line as well, watching closely to see no supplies or merchandise enter or leave the plant.

The sit-downers are fully determined to carry on the fight for an indefinite period, until it is won."

Exhibit P-11-c**"BRANCH ONE GUIDES THREE SIT-DOWNS FOR UNION PACTS**

Philadelphia—The more than 100 workers at the Venus Silk Hosiery Company, Inc., Wisconsin and Friendship sts., pulled a sit-down strike last Wednesday when the firm refused to grant their demands for a closed shop and wage increases.

The sit-down at the Venus marks the third hosiery mill to be closed down here by similar strikes. Workers at the Federal Knitting Company sat down two weeks ago to force the granting of demands similar to those of the Venus strikers, and the Whitehall Hosiery Mills have been closed down for three weeks by stay-in strikers.

Sit-downers at all three mills are keeping themselves occupied with such pastimes as cards, music, books, songs and daily exercises in the mill yards. Hosiery workers in other shops have been taking time off to visit the sit-downers, and amuse them with bits of news of the outside world.

Outside picket lines at the Whitehall and day-time sit-downers augment the more than 200 strikers who are staying in. Approximately 450 workers are striking at the Whitehall, where the shut-down was precipitated by the company's refusal to recognize Branch One, of the American Federation of Hosiery Workers as collective bargaining agent for its workers.

The Federal strike was called when negotiations between the branch and management failed to reach any satisfactory settlement. The union demanded a closed shop, check-off contract, and full union rates. More than 160 workers are involved in the situation.

Negotiations with other open shops are in progress between managements and officers of Branch 1. William Leader, president of the local, is highly optimistic regarding the outcome of these negotiations, and expects several agreements will be signed during the coming week."

Exhibit P-11-d

"SIT-DOWNERS FIRM AT 3 PHILADELPHIA MILLS

Philadelphia—Sit-down strikers at the Venus Silk Hosiery Company, Inc., Wissanoming and Friendship sts., entered their third strike week determined to remain in the mill until their demands for a closed shop and wage increases are met.

Fifteen of the Venus strikers Wednesday staged a demonstration before the homes of two of the Venus stockholders. For more than one hour the pickets marched up and down before the homes carrying placards proclaiming the Venus strike, and informing the neighborhood that the stockholders refused to intervene to settle the strike.

Meanwhile, equally determined to gain their demands, sit-downers at the Whitehall Hosiery Mill, now in their fourth strike week, and strikers at the Federal Knitting Company, entering their fourth week, occupied the hours with song and cheer, and welcomed eagerly news of the outside world brought to them by visiting Branch One members.

The men are literally entering into a pinochle siege, and competition waxes keener every day. Talented musicians and singers among the strikers have spent so much time practicing that they are confident of successful radio auditions when the strike is over.

The sit-downers declare they have never eaten as good meals as are furnished them by Branch One's Strike Food Kitchen, and it is rumored a good many of the strikers have gained considerable weight.

Approximately 660 workers are on strike at the three mills. All demands include the closed shop union rates and conditions and the check-off system."

Exhibit P-11-e**"FOUR PLANTS REMAIN IDLE AS BR.
ONE DRIVE GOES ON**

Philadelphia—Four hosiery plants stood idle this week as Branch One of the Federation continued its crusade for closed shop agreement in open-shop mills.

Exhibit P-11-f

Strikers in all four mills present orchids to Branch One's Strike Food Kitchen for their splendid meals. Six of the local's members are occupied day and night in preparing food for the 800 strikers."

Exhibit P-11-f

"Philadelphia.—Three more closed shop, check-off agreements, and two strikes this week highlighted Branch One's rapid progress in its campaign to wipe the city free of chisellers and gain a complete closed shop hosiery industry.

Branch One has victoriously settled five of the nine strikes pulled in as many weeks by its members. The Brownhill-Kramer, Arlington, Whitehall, Federal and O. K. employes are all working under closed shop, check-off agreements as a result of the local's highly successful campaign. Agreements were all negotiated by President Leader of Branch One."

VICTORY!

Philadelphia,—Another smashing victory in Branch One's campaign to unionize this city's hosiery industry was scored Monday when the Whitehall Hosiery Company signed a closed shop, check-off agreement, ending the five-week sit down strike at the plant.

The firm ceded its workers all their demands,

including union rates and conditions, and arbitration of all disputes. The pact was signed by William Leader, president of Branch One, and Burns Robie, head of the company, in Mayor Wilson's office, and terminated a four-hour conference period.

The firm's agreement to pay union rates means a wage increase of approximately 18 per cent to many of the workers."

Exhibit P-11-g

Philadelphia,—Branch One's steady march toward a closed shop hosiery industry in this district gained added impetus this week with a victorious settlement of the Sunrise Knitting Mills strike.

William Leader, President of Branch One, conducted negotiations with the firm management for the workers.

Sit-downers at the J. J. Strahan Company, 17th and Indiana ave., entered their second strike week determined to remain in the plant until management ceded their demands for a closed shop union contract.

Attempts by President Leader to settle the strike have met with failure.

The strike is being led by the local Council for Industrial Organization, with William

Leader, as head of the CIO, in charge. Leader, who is also president of Branch One of the American Federation of Hosiery Workers, declared his union was not involved in the situation, because of an injunction, issued in 1931 by Judge Harry McDevitt, which prohibits the union from picketing, striking or organizing the plant.

COURT HEARING SATURDAY

Management of the strike-bound plant Wednesday petitioned Judge McDevitt to issue a court order declaring Leader, Joseph Burge and Leo O'Driscoll, president, vice-president and business agent respectively of Branch One, in contempt of court for violating the 1931 injunction. The firm also asked McDevitt for an order to the Sheriff to evict the sit-downers and declare them in contempt of court. The hearing will be held 10 A. M. Saturday in Room A, City Hall."

Exhibit P-11-h

"ARTCRAFT STRIKE IN NEGOTIATIONS' HANDS; DELAY COURT ACTIONS.

Philadelphia.—Dining on chicken, listening to the radio, playing pinochle and dancing to the music of portable victrolas, sit-down strikers at the Artercraft Silk Hosiery Mills continued to make merry while negotiations continued between William Leader, President of Branch One of the American Federation of Hosiery Work-

ers, his aides and representatives of management.

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CLOSED SHOP AT VENUS

The five-week sit-down at the Venus Hosiery Mills, Wissinoming and Friendship sts., was settled last Thursday when the firm agreed to a closed shop, check-off agreement. The pact was reached at a conference between William Leader, president, and Joseph Burge, vice president of Branch One; Antoni Maachowski, president and Edward Kletke, vice president of the firm. It provides for union wages and hours, and seniority rights.

The Venus is the 7th mill signing a closed shop contract as a result of Branch one's drive for a 100 per cent union industry in this city. Of the 11 strikes called by the branch, only four remain unsettled, the Lucille, Strahan, Brooks and Anderson, and the Marshall Field."

Exhibit P-11-i

"CAMBRIA FALLS AS 3 MILLS SIGN UP IN BR. ONE CAMPAIGN

Philadelphia.—A sit-down strike of the 225 workers at the Cambria Hosiery Mills was called Wednesday as Branch One marched steadily onward to its organization campaign goal of a closed shop hosiery industry with the signing of three closed shop agreements, bringing the total pacts obtained since January to

13. The Cambria workers sat down Wednesday when the firm refused to cede their demands for a closed shop, check-off contract with union wages and hours. Cots and bedding were provided for the strikers, and Branch One's food kitchen is sending in hot meals.

AGREEMENTS SIGNED

Sit-down strikers at the Lucille Hosiery Mills, Bodine and Bristol sts., ended their 40 day strike Monday when the firm signed a closed shop, check-off agreement. The pact was signed by Elwood Hoffman, president of the firm; Alexander Scott, company vice-president, and William Leader, president of Branch One.

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'Our campaign goal of a closed shop hosiery industry here will be reached within a very short time,' Leader confidently predicted today. 'To date the union has been completely victorious in 13 shops, where the workers are now under complete closed shop contracts. We expect satisfactory settlements in the remaining mills on strike very shortly.'

Exhibit P-11-j

"APEX STAYS SHUT AS STRIKERS STAND FIRM 2300 IN LARGEST PHILA. MILL JOIN UNION RANKS; CLOSED SHOP PRIME DEMAND

Philadelphia.—The Apex Hosiery Mill, citadel of openshopdom and white hope of anti-

labor manufacturers in this vicinity, remained closed down tight this week as sit-down strikers held undisputed possession of the plant.

Final and uncombatable evidence of the union's strength among the workers is the fact that 2300 of these hitherto unapproachable Apex employees are members of the union. The remaining 200 are rapidly joining the union's ranks.

Rigid regulations, set up when the strike was called two weeks ago, are strictly enforced among the sit-downers, all of whom have had duties assigned to them which they are carrying out efficiently. Of the 2500 striking Apex workers, 300 are sitting down in the plant, and the remainder maintain a mass picket line around the mill each day.

The outside strikers, at a meeting this week, emphasized their determination to keep the mill closed until the firm signs a closed shop check-off contract.

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The only way by which the strike will be terminated, strike leaders declare, is the signing of a contract establishing the closed shop; check-off and full union rates and hours.

BROOKS, ANDERSON SIGNS

The 25-day sit-down strike at the Brooks and Anderson Hosiery Mill ended Friday when the

firm signed a closed shop contract with Branch 1, covering more than 120 workers.

VOGUE SIGNS UP

Sit-down strikers at the Vogue Hosiery Mills started their machines Wednesday when the firm signed a closed shop contract, ending its 27-day strike.

Sit-downers at the Torresdale Hosiery Mill opened negotiations with management this week for settlement of their 4-week strike. The strikers will stage a gala donation party 9 P. M. Tuesday, May 25, in the mill.

SIT-DOWNS CONTINUE

Sit-downs at the Cambria, Marnet, J. J. Strahan and Artcraft Hosiery Mills continued in full swing, as the workers stood adamant on their determination not to return to work unless the firms sign a closed shop, check-off contract."

Exhibit P-11-k

"Philadelphia.—Branch One, AFHW., recorded one of its greatest victories in recent years as the Artercraft Hosiery Company signed a closed shop, check-off agreement Monday, ending a five week strike.

The agreement, negotiated between Jack Kugelman, company president, and William Leader, president of Branch One, also provides for full union wages and hours, elimination of the two machine system and arbitration of all disputes.

Union leaders, openly jubilant over the victory at Artercraft, predicted a similar settlement at the Apex shortly."

"Philadelphia.—Following the usual procedure of union-baiting, open shop employers, the Apex Hosiery Company this week invoked the aid of the courts in an attempt to 'injunction' its striking sit-downers from the plant at 5th and Luzerne Sts.

"Meanwhile, the effective combination of sit-down strikers and outside picket line continues to keep the mill closed down. More than 2300 of the 2500 Apex workers are members of the union."

Exhibit P-11-1

**"APEX DENIED INJUNCTION AGAINST
SIT-DOWN STRIKERS APPEAL HEARING
MONDAY**

Philadelphia.—The injunction petition brought by the Apex Hosiery Company against Branch One, American Federation of Hosiery

Workers to evict the 850 sit-down strikers, was dismissed Saturday by Federal Judge William H. Kirkpatrick.

The decision, a signal victory for the union in its one month old strike, was made on the ground the Federal Court had no jurisdiction in the matter.

The Apex Company filed an appeal and the U. S. Court of Appeals fixed a hearing for Monday.

Judge Kirkpatrick declared the company's production is not important to interstate commerce, and therefore the union's actions as charged by the firm did not constitute "undue or unreasonable" restraint of interstate commerce which would bring it under the Federal Court's jurisdiction.

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The 250 Apex sit-downers continue to occupy the mill, keeping all production at a standstill, while the remaining 2050 members of the union stand adamant on their determination to gain a closed shop contract."

Exhibit P-11-m

"APEX, CONTINUES INJUNCTION HUNT AS 7 MILL SIGN

Apex Striker Gives Blood For Fellow Hosiery Worker's Life

Philadelphia.—Jack Thurman, Jr., striker at the Fox Chase Hosiery Mills, is on the road

to recovery today because Frank Steiner, an Apex Hosiery Mill sit-downer unhesitatingly gave his blood that a fellow Branch One member might live.

Thurman was stricken seriously ill Friday with a sudden attack of bronchial pneumonia. A blood transfusion was necessary so that he could undergo an operation. No sooner had Jack Thurman, his father and an active Branch One member, appealed to the local for blood donors than five Apex strikers Frank Steiner, Joe Winward, Steve Middleton, John Ezzo and Alfred Baack volunteered their blood. Steiner's blood was the right type.

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A closed shop agreement ended the 8-week sit-down of more than 165 workers at the Mar-net Hosiery Mills. The pact, signed by Earl Kurschner, company president, and President Leader, contains provisions similar to those in the Cambria settlement.

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Sit-down strikes at the J. C. J. Strahan, Fox Chase and Marshall Field Hosiery Mills continued in full swing as the strikers remained determined to obtain closed shop contracts.

Exhibit P-11-n

APEX SIT-DOWNERS OUT BUT 24-HOUR
PICKETING STILL KEEPS MILL SHUT

Rieve Calls for Congressional Probe

Philadelphia.—Sit-down strikers evacuated the Apex Hosiery Mills Wednesday in a desire to avoid bloodshed that might have followed the threatened use of the United States Army to enforce the order of the United States Circuit Court of Appeals.

Tuesday, union officials held conferences with Judge Kirkpatrick, Mayor Wilson and Reing in an effort to delay the eviction. Fearing violence, not only inside the plant, but outside, where thousands of pickets were massed, Reing did not act Tuesday.

CONFER WITH MAYOR

Present, in addition to the Mayor, were Rieve, William M. Leader, president of the Philadelphia local of the Hosiery Workers Union; M. Herbert Syme, counsel for the union; Joseph Burge, vice-president of the local, and members of the strike committee from the Apex Mill led by Leo O'Driscoll.

Leader informed the group every legal means had been attempted by the union to delay the threatened eviction. Mayor Wilson warned the men the 'deadline had been reached' and that to continue in the plant would force Marshal Reing to take drastic steps, to fulfill his Court-imposed duty.

By that time, the conferees in the Mayor's office decided the mill should be evacuated voluntarily, but final decision was up to the sit-downers themselves. So the whole group sped to the mill at Fifth and Luzerne streets.

The Mayor and the union officials were admitted to the plant, first visitors since the strikers took over. They first went to the office, and then out into a first-floor corridor, where the strikers met them.

'We are fighting the Apex Hosiery Mills, not the United States Government, Leader told the sit-downers.

'The official agency of the Government has ordered us out. We will be opposing the Government if we stay in the mill. No union and no group has ever successfully rebelled against the Government.

'We can get what we want by fighting outside the mill, and your officers feel that is what we ought to do. We have done everything we legally could to resist the order of the court. If we don't comply, they are ready to issue body warrants for all of us.

'You know what that means. They will

• send troops up here and take every man out
—dead or alive.

Then William Eitter, Apex shop chairman, declared: 'Bill Leader has done everything he can for us, and if he says it's time to leave here peacefully, that's all right with me. I Say, Let's Go Out,' He Concluded.

The vote and evacuation followed. Immediately the 24-hour picket line was established."

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• • • • • TO HIGH HEAVEN!

The sit-down strikers in the Apex Hosiery Mill have evacuated the mill.

This followed the decision, unwarranted by law, reason, or justice, of the United States Circuit Court of Appeals; an order supported and reinforced by threats of U. S. Attorney General Cummings to place the United States Army at the disposal of the Apex Co.

The evacuation does not end the strike, which will be conducted with vigor and effectiveness. Injunctions do not solve the problems involved.

The action of the Circuit Court of Appeals raises greater issues than the Apex Strike itself. Under the weird interpretation by the Circuit Court, the Wagner Act not only is inoperative but is turned against the workers it was designed to benefit, and once more oppressive industry straddles the economy of the Nation with the Sherman Act a mace to beat down all human progress.

Aside from the normal step of appealing the Circuit Court's outrageous decision to the United States Supreme Court, the American Federation of Hosiery Workers, supported by the rest of the organized labor movement and particularly the Committee for Industrial Organization and United Mine Workers of America, is initiating action to bring about a Congressional probe of the conduct of the U. S. Circuit Court of Appeals in this case.

The Apex decision is not a lone ruling in its outright anti-labor bias and venom, but is indicative of the court's general attitude and policy. This is proved by its decision, only a week prior to the Apex Decision, in the Delaware-New Jersey Ferry Company case. In this decision the court, according to the sole dissenter, and incidentally the newest member of the court, 'voided the major provision of the Wagner Act and put a premium upon the very practices its avowed policy prohibits.'

It is decisions such as these and courts such as these that, despite the spleenish rantings of the Senate Judiciary Committee, makes imperative the success of President Roosevelt's plans to reform our Federal courts. Such decisions in such courts settle no strikes but only make them more necessary. Such decisions may be clutched to the bosoms of employers as triumph but they constitute a physic victory to the people of the country who must pay for them in continued economic slavery and industrial strife."

*Exhibit P-11-o**Exhibit P-11-p***Exhibit P-11-o**

"ONLY FIVE MILLS NOT UNDER CONTRACT IN PHILADELPHIA; SOLE LARGE ONE, APEX, STILL SHUT

Five strikes, the Apex, Oswald, Fox Chase, Strahan and Marshall Field, stand between the Branch and a 100 per cent closed shop hosiery city. All, with the exception of the Apex, are sit-down strikes.

'We are tremendously satisfied with the progress of our campaign,' Leader said this week. 'We have no doubt that the city will be a 100 per cent union hosiery city within a few weeks.'

National hosiery officials commended the branch on its splendid campaign."

Exhibit P-11-p

**"STRAHAN SIGNS UP WITH BRO. 1;
ONLY 4 LEFT IN PHILA.**

The 2500 strikers at the Apex Hosiery Company maintain a vigilant picket line around the plant daily. The mill is completely down, the eviction order having availed the company nothing in starting operations at the plant. The strikers are more than ever grimly determined to gain their demands for a closed union shop and the check-off.

'Our organization campaign has been most successful to date,' Leader said this week. 'Our goal of 100 per cent closed shop in the hosiery industry here is practically gained. We have no doubt it will be reached within a few weeks.' "

Exhibit P-11-q**"LEADER HAILS APEX CONTRACT AS
UNION GAIN**

Philadelphia.—The Apex settlement has aroused nationwide attention and nationwide comment. The members of Branch 1, I am sure, are interested to know what my reaction is to the settlement.

The strike in itself was probably one of the most eventful, not only in the hosiery industry, but in labor as a whole.

The Apex Company stood as the bulwark of anti-unionism. It stood there as a threat and as a dare to the hosiery workers and to labor as a whole. Our union has been in existence for 27 years, and for 20 years the hope and aspiration of every hosiery worker has been the unionization of the Apex Hosiery Company. For 20 years it has been the cherished hope of the members of our union that we would be able to welcome into our midst the Apex Hosiery employees.

On May 6th we finally felt that we were sufficiently strong and that we had sufficient co-

operation from within the mill to lay down the challenge to the company. For a period of three months we withstood all of the pressure and all of the force that could be brought against an individual union by the combined reactionary opinion, not only of Philadelphia, but throughout the country. For three months we were dragged through every court, from the Magistrate's Court to the United States Circuit Court of Appeals. For three months we were threatened with imprisonment, prosecution, and with complete destruction. For three months we withstood every attack upon our persons and upon the resources of our union.

• • • • •

The agreement stands as a fulfillment of the desires of the hosiery workers. During the negotiations at one of the conferences I pointed out that I sit not merely representing myself, not merely representing the committee, but I sit and express the desires of all the union hosiery workers, those who are living and those who have died on behalf of our union. I feel that this agreement is a tribute to their valor, to their devotion, to their self-sacrifice."

BY MR. HIRSCH:

Q. Did your union ever expel from its membership any of the members of your union who were sit-down strikers on the Apex premises during the period of May 6th, 1937 to June 23, 1937 because they were sit-downers, that you know of?

A. Not to my knowledge.

Q. And do you know of any member of your union who resigned from the membership in your union because he or she did not approve what was taking place on the Apex premises during the period of the sit-down strike?

A. I do not.

Q. All of the books and records are under your general supervision, are they not?

A. Financial books.

Q. You are in charge of the office?

A. That is right.

Q. And the books and records of this union are kept at the office of the union?

A. That is right.

Q. And the office is located where?

A. 2530 North 4th.

MR. HIRSCH:

That is all, Mr. Oehmig, at the moment. Mr. Burge.

JOSEPH PATRICK BURGE, having been duly sworn, was examined and testified as follows:

(Discussion off the record.)

THE COURT:

I was only wondering why a selection had been made of these so far apart.

MR. HIRSCH:

Because in the other ones there wasn't any specific reference that we thought was valuable—

THE COURT:

All right.

MR. HIRSCH:

—to our presentation of the case.

THE COURT:

All right.

MR. HIRSCH:

These are the papers that contain something that we thought was germane to the issue.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Mr. Burge, in May, 1937 you were the vice-president of this defendant union, were you not?

A. Yes.

MR. HIRSCH:

I call this witness as for cross examination.

THE COURT:

Who is this? I didn't get it.

MR. HIRSCH:

A named defendant, Joseph Burge.

THE COURT:

All right.

MR. HIRSCH:

Vice-president of the union.

Cross Examination

BY MR. HIRSCH:

Q. Are you the vice-president at the present time?

A. No.

Q. And you recall the sit-down strike which took place at the Apex Hosiery Company?

A. I do.

Q. Were you present at the Apex Hosiery mill on May 6th, 1937, at any time?

A. Yes.

Q. What time of the day did you get there?

A. I should say around four o'clock.

Q. Had the mill already been broken into?

A. There was a crowd milling around, and I had been informed that Mr. Leader had gone in to confer with Mr. Meyer when I got there.

Q. Did you enter upon the premises?

A. Yes.

Q. And how long were you on the premises?

A. During the conversation which took place between Mr. Meyer and Mr. Leader.

Q. And you were there as an official representative of this union, Branch 1?

A. Yes.

Q. And as its vice-president?

A. Yes—I hadn't been delegated to go there.

Q. But you were its vice-president at the time?

A. That is right.

Q. And it is true that in other conferences that took place during the pendency of the strike between management and the union you attended those as vice-president and representing the union?

A. Some of them.

Q. Some of them, and it is a fact, is it not, that conferences that were held between the union and management were reported back to the union's executive board—

A. Yes.

*Joseph Patrick Burge Called on
Cross Examination*

Q. —from time to time?

A. Yes, the salient points of those conferences.

Q. And it is a fact that the strike at the Apex mill was discussed by the entire general membership of the union at its membership meetings from time to time during the pendency of the strike?

A. I wouldn't say that it was in any particular instance that I can remember. There had always been a feeling that we shall organize Apex, but I don't remember any meeting which specifically dwelt on that particular question.

Q. Do you remember any meeting during the time the strike was in progress where a report was made as to the progress that the union representatives were making with management in the negotiations?

A. After the strike had commenced, yes.

Q. That is what I mean, so that after the strike had commenced and during its pendency, while the sit-downers were still on the property, reports were made to the general membership of the union as to the negotiations which the union representatives were carrying on with management looking to a settlement of the strike?

A. While the strike was going on, yes.

Q. Were you employed in any mill on May 6th, 1937?

A. I was a full-time officer for the union.

Q. Oh, and you were a salaried officer at the time?

A. That is right.

Q. And Leader was the president of the union?

A. That is right.

Q. And he was the officer who negotiated all of the union agreements in Philadelphia, along with

you or other officers, during 1937, but, particularly, he was the one officer who always signed those agreements, wasn't he?

A. That is right.

BY THE COURT:

Q. Who was?

MR. HIRSCH:

That is all.

A. Leader.

MR. HIRSCH:

William Leader. William Etter. Is Etter here? Will you arrange to have him come down? Allen Harper.

J. ALLEN HARPER, having been duly sworn, was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Harper, you are an employee of the Apex Hosiery Company?

A. I am.

Q. And have been for how many years?

A. About seventeen.

Q. And what is your position with the company?

A. At present, maintenance engineer.

Q. And you were the maintenance engineer on May 6th, 1937?

A. I was.

Q. And for the period following that date?

A. Yes.

Q. You were working at the plant on May 6th, 1937?

A. I was.

Q. What, if anything unusual happened outside the Apex premises prior to May 6th, 1937, that you observed?

A. Well, on May 4th we observed bricks planted across the street—

MR. SYME:

I object to that, Your Honor.

THE COURT:

Yes, I ruled that out yesterday, unless you have—

MR. HIRSCH:

I hope to tie it in a little better than yesterday with this witness. I mean, there is a conversation—

THE COURT:

Oh, if you want to make an offer, all right, if counsel call for an offer. If not, I will take the evidence. I don't think it makes much difference. It has already been before the jury.

MR. HIRSCH:

All right, well, I will pass that for the moment.

THE COURT:

Now, I think the evidence of the occurrences there has been covered pretty completely.

MR. HIRSCH:

All right.

THE COURT:

I wish you wouldn't—

MR. HIRSCH:

I won't go into that. I didn't intend to.

THE COURT:

—cumulate on that. You have had two days of that. You could probably call any number of witnesses, and it is just as well to get on to the other questions in the case.

BY MR. HIRSCH:

Q. You have heard the testimony of previous witnesses, you have been in court,—

A. I have.

Q. —as to what occurred?

A. I did.

Q. And did you hear the testimony as to the presence of Mr. Leader outside and inside the plant on May 6th?

A. I did.

Q. Does that coincide with your knowledge of the facts?

A. It does.

Q. And your testimony if given would be similar to the other witness'?

A. Yes. I even spoke to Mr. Syme that day inside and when he come through the office with Leader.

Q. What did you see Leader do that day after they were inside?

A. After they was inside I—

MR. SYME:

Your Honor, you have already ruled out this and we are going through—

MR. HIRSCH:

Is it agreed that this witness also heard Mr. Leader address the sit-downers and tell them the union would provide the cots—

MR. SYME:

You have asked the man whether he heard the other witnesses testify—

THE COURT:

I don't think I will hear it unless the witness has something different to say—

MR. HIRSCH:

All right.

THE COURT:

—than what the other witnesses have said. If there is any dispute about those facts you can recall some of these witnesses.

MR. HIRSCH:

All right, that will be satisfactory.

BY THE COURT:

Q. Is there anything that you want to add that you found different—don't repeat what Mr. Meyer and the other witnesses said, but is there anything that you saw that they didn't see—

A. At that—

Q. —or testified to?

A. At that time I started to close up the windows and board up the door, the front door and the windows, when Mr. Leader was on the table there.

BY MR. HIRSCH:

Q. Well, is your recollection of what he said to the sit-downers any different than that—

A. Not a bit.

Q. —that has been given?

A. It is just the same.

MR. HIRSCH:

All right.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Now, what, if anything, did you see occur that day while you were still on the premises with regard to hosiery that was on the premises?

A. Well, I seen hosiery that evening being throwed out the second floor windows and—

Q. By whom?

MR. SIMONS:

Wait a second,—

A. Well, that I couldn't just tell, as to who, but it was the sit-downers were in there at the time, and outsiders.

MR. SIMONS:

—may I object to that, if Your Honor please, and ask that it be stricken from the record. There is no identification as to who did that, with a crowd of that kind.

THE COURT:

I will deny the motion.

BY MR. HIRSCH:

Q. What time did this occur?

A. Well, I was there until half past nine that night and those things were going on right along

up until that time. There was people walking out with it, right at the doors, and the greige hosiery was being throwed out from the second floor windows to the people on the Fifth Street pavement.

Q. Now, who remained in the mill that you saw that night, how many persons, before you left?

A. Well, there was about, I judge, two hundred and fifty, at least, outsiders, and some of our own employees, that was in as the sit-downers.

Q. Now, did you go on the property from day to day during the period of the sit-down strike?

A. I did.

Q. And what were your duties when you went upon the property during the period of the sit-down strike?

A. Well,—

Q. By whose permission did you go on the property? By whose permission did you go on the property?

A. Well, I had to get permission from the sit-downers to get in and from the union officials that were at the gates. I couldn't get in no other way.

Q. And what were your duties when you did get in?

A. To watch after the fire and keep the pumps and things running there.

Q. In other words, to see that the pressure was on,—

A. That is right.

Q. —so that the—

A. Look after the pumps, ice machines and stuff like that, and then, of course, the watchman come under me, too, to get around every hour.

Q. Now, when after May 6th did you next see Mr. Leader, and under what circumstances?

A. May 7th he was there.

Q. With whom?

A. Well, he come in, but I—he went outside into the wareroom. I didn't see what took place outside, with the exceptions of a—right there at the doorway, Mr. Wiley, the insurance inspector, come in, he was introduced to Wiley as the man in charge of the sit-down strike.

Q. Was it Wiley or Walters?

A. Mr. Walters, Mr. Walters.

Q. He was introduced to Mr. Walters?

A. Mr. Walters.

Q. By whom?

A. By O'Driscoll.

Q. What did O'Driscoll say? This was in your presence?

A. This was right close, right where I wasn't more than five feet away from him when he done it.

Q. What did you hear O'Driscoll say?

A. I was with the inspector at the time.

Q. What did you hear O'Driscoll say?

A. O'Driscoll said, "This is Mr. Leader. He is in charge of the sit-down strike".

Q. And what did Mr. Leader do when he was thus introduced? Did he accept the introduction?

A. Why, he accepted the introduction to Mr.—sure.

Q. Now, then, you have heard the testimony about changes of the locks and keys on the various entrances?

A. That is right.

THE COURT:

Oh, you don't even need to do that, Mr. Hirsch. Just go ahead.

BY MR. HIRSCH:

Q. Did you from time to time make an examination of the premises to determine what, if anything, was happening to the plant,—

A. I did.

Q. —equipment and machinery?

A. Daily.

Q. And on those occasions did you make any memorandums—

A. I made—

Q. —of the damage you found?

A. I did.

Q. Prior to May 6th what was the condition of the premises in so far as repair or disrepair was concerned?

A. First-class shape.

Q. Was there anything on that day, that is, prior to or on the morning of May 6th, 1937, in the plant which was damaged or in a state of disrepair requiring repairing?

A. No, sir, everything was first-class in that plant.

Q. And any damage that you made a record of on these daily inspections was new damage which occurred after May 6th?

A. That is right.

Q. And during the period that the sit-down strikers were on the premises?

A. That is right.

Q. Did you retain these memos—

A. Yes.

Q. —that you made?

A. I gave a copy of them to my superior boss there, Mr. Struve.

Q. And were those memos in your own handwriting?

A. They absolutely were.

Q. And did you at my request deliver them to me?

A. Indeed I did.

Q. I show you a number of memorandums and ask whether or not these memorandums were delivered by you to me. First, answer, were they the memorandums you delivered to me?

MR. SIMONS:

Have you typewritten ones, too?

MR. HIRSCH:

Yes, I will cover that in a minute.

(Papers were shown to the witness.)

THE COURT:

What are these, memoranda of damage?

MR. HIRSCH:

Yes, sir.

THE COURT:

All right.

MR. HIRSCH:

Made by this witness in his own handwriting, and then there are some typewritten sheets which I will cover in a minute.

THE COURT:

All right.

A. That is right.

BY MR. HIRSCH:

Q. And are the memorandums which are in handwriting in your handwriting?

A. They are.

Q. And who prepared the typewritten memorandums?

A. I did.

Q. When?

A. From these.

Q. From these?

A. That is right.

Q. And were they prepared at the time or almost—

A. Well, it was right after it.

Q. Yes.

A. It was around that time.

Q. I mean, they weren't recently prepared?

A. Oh, no, no; at the time, generally the day or the day after.

Q. Now, then, will you by refreshing your memory from looking at those memos tell us chronologically by date the damage which you found in making your rounds of the Apex premises which did not exist on the morning or prior to the morning of May 6th, 1937?

A. The evening of May 6th—do you want me to go right through them?

Q. Whatever you have.

A. The evening of May 6th they broke in the shop in the basement. They broke open the drawers and took—

Q. When you say "they", you mean the sit-downers in each instance?

A. The sit-downers and the people that were in the mill. The night, that is, the evening of May 6th after we left, this happened.

MR. SYME:

Your Honor, I object to this form. I mean, I

have no objection to his reading from his former—

THE COURT:

Yes, just say what the damage was,—

MR. SYME:

That is right.

THE COURT:

—if you found it broken open.

MR. HIRSCH:

And what you found.

THE COURT:

Objection is made to your saying who did it, do you see?

THE WITNESS:

All right.

THE COURT:

Just say what you found.

A. (Continued) They broke—well, the drawers of the knitters' tables were broken open. A knitter's table is in between the aisles, in between the machine and the aisle, where the knitters work. They were forced open and, of course, things taken out of them.

A switchboard, on May 6th, that was tore out, and we had to put back into shape. They tore it out again that evening. They also damaged—

THE COURT:

Now, wait a minute,—

MR. SYME:

Your Honor,—

THE COURT:

—you will have to—

THE WITNESS:

That is right.

THE COURT:

It doesn't really make much difference,—

THE WITNESS:

That is right.

THE COURT:

—but put it in the passive—

THE WITNESS:

All right, excuse me.

THE COURT:

—voice.

A. (Continued) The benches were broke in the yard, and also into the watchman's shanty, that was broke open in the yard.

This thing is kind of twisted up here a little. Could I just go over these according to the dates they are, the way they are put here?

THE COURT:

Oh, yes; what difference does it make—

MR. HIRSCH:

Go ahead.

THE COURT:

—whether you put them in chronological order or not. Go right through them.

A. (Continued) On May—

THE COURT:

By the way, you haven't had any daily copy, but when you get to this itemization of damages, I am going to ask the stenographer to give me a copy of the testimony.

MR. HIRSCH:

All right.

A. (Continued) May 27th, the door to the roof was tore off. Large glass table top was broke on the first floor.

Thursday afternoon, May 27th, window frame was broke in the northeast corner of number 5 building, and they forced two window frames to the dye house.

Thursday afternoon, May 27th—well, this is the forcing of the two window frames into the dye house.

May 28th, the half hose cabinet was broke into, and, of course, I walked out through the floor there, I seen it, and where they kept the seconds, the cabinets where they kept the second hosiery in, that was broke into. I relocked them cabinets.

May 29th, they broke the counters on the—that is, the counters were broken on the examining tables on the second floor.

June 7th, stockings were pressed off the machines.

BY MR. HIRSCH:

Q. What does that mean?

A. Well, the stockings weren't completely finished on the machine at the time that the knitters went out, there was maybe half or two-thirds of the stocking on, and these were pressed off by somebody

moving the machine. When they moved the machine, naturally, why, the work went off. That was a loss.

Q. Go ahead.

A. May 26th, the big gate was broke to the inner yard.

May 27th, they tore the doors off again to the roof. At those times I had the carpenters there, I had them place them back on again, that is, to nail them shut, so there was no access to the roof, only by those that had a key to the roof.

June 8th, Mr. Meyer's desk was broken open and cigars were taken out, and also the light was tore out of his office and taken to the outside.

Wednesday night, June the 9th, 298 metal separators on the spinning machines in the old mill was damaged. Now, a separator there is a piece of metal that goes between the spools that spin the silk, the silk that is brought down from single strands to whatever strands they are making, if it be four, five, six, and in between each one of these spools is a metal separator to keep the silk from flying from one side to the other.

Q. 298 of those were broken?

A. 298.

Q. Or bent, I mean.

A. Were bent, yes. Some were broke right off.

June 10th, June 10th, that was Thursday, about eleven o'clock, I heard a conversation there on the floor—

Q. Who was in the group?

A. What is that?

Q. Who was in that conversation?

A. Why, that was amongst the sit-downers and Bill Etter.

Q. William Etter?

A. William Etter, yes, and that is when I first found out—

MR. SIMONS:

If Your Honor please,—wait a second—I object to the conversation or anything that took place at that time.

THE COURT:

No, it is all right this time.

THE WITNESS:

Yes, sir, this is—

MR. HIRSCH:

Wait a minute.

THE COURT:

If you want an offer—I don't know what the conversation is.

MR. SIMONS:

I don't, either, and I am objecting to it merely because it is a conversation among the men there.

MR. HIRSCH:

With William Etter.

THE COURT:

Well, William Etter, there is evidence that he was in charge of the men there and authorized to control the situation. I will permit it in view of the fact of William Etter's presence.

MR. SIMONS:

You will note my objection?

THE COURT:

Yes, all right.

BY THE COURT:

Q. What was heard, what did you hear?

A. Why, I heard them speaking about the damage that was done on the knitting machines on the floor, fourth floor.

Q. Yes.

A. So we went up and took a look at that.

BY MR. HIRSCH:

Q. Was that the first intimation you had that these machines had been damaged?

A. That is right.

Q. That was June 10th?

A. Yes, that was June 10th, and in the morning of June 10th is when I found out that the separators were broke, but they were broke June 9th,—

Q. Go ahead.

A. —the night of June 9th.

THE COURT:

Well, go ahead.

THE WITNESS:

And I made a list of the damage that was done at that time.

BY MR. HIRSCH:

Q. Is that a typewritten list?

A. It first was in pencil, and then typewritten.

BY THE COURT:

Q. Now, can't you summarize your typewritten list,—

A. Yes.

Q. —without giving us every item?

A. That is right. There was 275 heads were smashed on the machines, and 42 picot bars.

BY MR. HIRSCH:

Q. How many machines were damaged?

A. Twenty-eight on the fourth floor.

Q. What kind of machines were they?

A. Knitting machines.

Q. Yes, by "knitting" you mean legging machines?

A. Legging machines, yes.

Q. Go ahead.

A. And footers, there was two damaged.

Q. And where were the footers located?

A. Why, on the third floor.

Q. Do you have the numbers of those machines?

A. I have the numbers of the machines.

Q. Give us the numbers of the machines that were damaged.

A. All right.

Q. First, take the twenty-eight leggers.

THE COURT:

Oh, well, can't we put those in—

THE WITNESS:

It is all listed here.

THE COURT:

Why doesn't he offer just his memorandum?

MR. HIRSCH:

Let me see that.

THE COURT:

I don't think there would be any objection to it, as his testimony, that is all.

MR. HIRSCH:

All right, I offer this in evidence as Plaintiff's Exhibit number 12, two sheets showing the dam-

*Exhibit P-12—Summary of Damage
to Leggers and Footers*

age to the twenty-eight leggers, showing the numbers and nature of damage to twenty-eight leggers and two footers as found by the witness on June 10th, 1937.

(Summary of damage to leggers and footers on June 19th, 1937, compiled by Mr. Harper, was marked Exhibit P-12. A copy thereof follows:

**Exhibit P-12—Summary of Damage to Leggers
and Footers**

209	H-3 to 10, 12 to 19, 16	245	H-6 to 10	5	
	PB-12 to 16	5	PB-7 to 10	4	
210	H-14 to 20	7	246	H-14 to 20	7
	PB-15, 16	2		PB-	
211	H-1 to 18	18	247		
212	H-0		248		
	PB-1 to 8, 14 to 20, 15				
213			249	H-14 to 20	7
214			250	H-6 to 11	6
215	H-1 to 17	17	251		
216	H-1 to 20	20	252		
		<hr/>			<hr/>
		225			50
		<hr/>			<hr/>
		38			4

Total heads 4th fl. 275

Total P. B. 4th. fl. 42

Total Leggers Damaged 28

3rd. Floor No. 1 Bldg.

37	H-17 to 20	4
38	H-1 to 6	6
		<hr/>
		10

*Exhibit P-12—Summary of Damage
to Leggers and Footers*

423

Total heads 3rd fl. 10

Total Footers Damaged 2

4th. Floor No. 1 Bldg. North.

181		217	
182		218	
183		219	
184		220	
185		221 H-5 to 9	5
186		222 H-1 to 15	15
187		223	
188		224	
189		225	
190		226	
191 H-4 to 13	10	227	
192 H-8 to 20	12	228	
193 H-1 to 12	12	229 H-1 to 4-13	5
194 H-11 to 20.	10	230	
195 H-1 to 10	10	231	
196 H-11 to 20	10	232	
PB-11 to 19	9		
197 H-1 to 6	6	233	
198 H-14 to 20	7	234	
199 H-7, 9, 10	3	235	
PB-1, 2, 5, 8, 10, 11,			
12.	7		
200 H-11 to 20	10	236	
201		237	
202		238	
203		239	
204 H-14 to 20	7	240	
205 H-6 to 16	11	241	
206 H-8 to 20	13	242	
207 H-3 to 15	13	243	
208 H-8 to 20	13	244 ")

BY THE COURT:

Q. Can you give us a general description of what kind of damage it was?

A. Yes, sir, it is right there. There is the total heads on the machine, that is, the knitting heads.

MR. HIRSCH:

Keep your voice up. These people would also like to hear, so talk to both sides.

BY THE COURT:

Q. What did it show had been done? Had it been unscrewed?

A. They were smashed.

Q. Smashed?

A. That is right, the needles were damaged, and the picot bars. The needles were damaged and some of the picot bars were damaged.

Q. Can those machines be smashed with the naked hand?

A. No, sir, you would have to use a tool of some kind to do it.

Q. Yes.

A. Or it could be smashed through turning the machine and jamming it, running the carrier, bend the carriers down and run them across the needles and the sinkers.

Q. All right.

A. And smash it out that way.

THE COURT:

I just wanted to get a general idea.

BY MR. HIRSCH:

Q. Now, then, after you made this examination and the report of the damage that you found what did you do?

A. On that day, of course, I made this that day on paper.

Q. Go ahead.

A. Wrote it out, and then typewrite it off, but they wouldn't leave us out that night to go home, they held us in the building.

Q. Did you have any conversation about this damage with anyone?

A. Just with Bill Etter, that is all.

Q. What was the conversation? Did this take place after you examined the damage?

A. Yes, I went up there—

Q. What did you say to him and what did he say to you?

A. Well, he couldn't see how it was done, it must have been done while he was asleep, that is all was claimed.

Q. And what else did he say when—you suggested something on that occasion, didn't you?

A. Well, yes, at that time I suggested to bring in a fingerprint expert, to have Mr. Struve bring him in to fingerprint these here separators that they smashed, and he swore at that time and said, "I forgot to wipe them off." Now,—

BY THE COURT:

Q. Who said that?

A. Bill Etter.

Q. Yes.

A. And I left it go at that, as though I didn't hear it.

Q. Well, was that a joke or was he serious about it?

A. No, he was absolutely serious about it at the time. That was before I found out that the knit-

ting machines were smashed. Then after the knitting machines were smashed and we looked at them—

BY MR. HIRSCH:

Q. Well, now, let's come back—what did he actually say? I don't want you to be profane,—

A. Well,—

Q. —but what were his actual words?

A. Well, he swore there—if it is all right to say it I can say it.

THE COURT:

Go ahead, tell us what he said.

A. (Continued) All right, he says, "Jesus Christ, I forgot to wipe them off", see, when I spoke to him about getting a fingerprint expert in, and, of course, I walked away from him at that time, but that night he wouldn't leave us out, and so they made us be fingerprinted before we could go out, before they would leave us out, they had a pad there, and, of course, he made each one of us be fingerprinted, that is, all the watchmen, before we could go out, on just plain paper.

BY MR. HIRSCH:

Q. Now, what happened after June 10th for which you have memorandums?

A. Why, here I have one, June 15th, there was a new lock placed on the—

Q. Before I get into that, I beg your pardon, were these machines which you found damaged on June 10th in good condition prior to that date?

A. Oh, yes, absolutely.

Q. All right, go ahead.

THE COURT:

It is understood that all the damage you are reporting was new damage?

THE WITNESS:

That is new damage.

MR. HIRSCH:

All, right, I won't ask the question again.

THE COURT:

Now, don't need to repeat that. Don't report anything that wasn't new.

A. (Continued) Well, June 15th, there was a new lock placed on the annex door on the second floor, where the watchman had to go through to ring up his clock, and, of course, we couldn't get through there no more. That is an inside door.

Number 226, on the fourth floor, June 14th, they pressed off the work.

June 13th, door to the sixth floor stairway was forced open.

June 15th, ceiling light broken, south end of basement.

May 29th, here, there was three counters broken on the examining tables. A counter is a machine put on there to count the work after it has been turned and examined.

Monday, night, May 17th, the doors was broke to the roof, again.

Sunday night, May 23rd, clock and equipment in the watchman's shanty was tore out and smashed.

Tuesday night, May 25th, light and telephone in basement yarn department was smashed.

May 14th at five A. M., Friday morning, I had a call from the engineer that the sit-downers broke into the old mill through the second floor.

BY MR. HIRSCH:

Q. What did you do?

A. Well, the only thing you could do was go down.

Q. Did you see that?

A. I went down to see what happened.

Q. Had that happened?

A. Yes, it had.

Q. Go ahead.

THE COURT:

Have you got the record of the injunction proceeding? May I see it? Go right ahead.

THE WITNESS:

These slips here are the slips of the repairs that was given with this when we repaired the—

MR. HIRSCH:

Well, hold those out for the moment. Just tell us the damage now.

THE WITNESS:

And these here are reports where the engineer called me for different things.

MR. HIRSCH:

Well, keep those out, keep everything out that doesn't refer to damage.

THE COURT:

Yes, I wouldn't bother about electric light bulbs and that sort of thing.

THE WITNESS:

Watchmen's reports.

MR. HIRSCH:

All right.

BY MR. HIRSCH:

Q. Now, coming back to the damage to the machinery on June 10th, as you found it to be, to what extent were they damaged? Could they be operated?

A. No, they could not, the machines could not be operated because the needles were all smashed in them, the heads of the picot bars and stuff were—

Q. Did that necessitate an important or a minor repair?

A. Oh, that is an important repair.

Q. Now, during the period that you made these examinations and during the period that you were looking after the property from day to day as the maintenance man on the place did you see the sit-downers take any care of the machinery?

A. Oh, no.

Q. Did you see them do anything to keep them in good order and repair?

A. No.

Q. Were you on the premises on June 23, 1937, when the sit-downers evacuated the plant?

A. Not the day they evacuated, but—

Q. When was the last day you were there?

A. —the day before.

Q. That is June 22nd?

A. Yes.

Q. Were you able to get in the mill on that day?

A. I got into the mill on that day and when I—I

come in through the Rising Sun entrance, and when I got to the first floor into the boarding room there was a group of the youngsters there crying. I asked them what was wrong. They said, "We want to get out of here."

I said, "Why, now?", and they says to me, "Harper, if you knowed what happened—

MR. SIMONS:

If Your Honor please,—

A. —in here last night—

MR. SIMONS:

Wait a second, I object to this conversation.

BY MR. HIRSCH:

Q. Was this conversation with the sit-downers?

A. It is the sit-downers.

MR. HIRSCH:

I think it is relevant, sir. We have them here—

THE COURT:

Better make an offer; if it is important, make an offer.

MR. HIRSCH:

Well, it isn't that important.

THE COURT:

All right.

BY MR. HIRSCH:

Q. As a result of what they told you you learned immediately that certain damage had been done?

A. That is right.

Q. Now, then, what did you do after you had learned that?

A. Well, while I was standing there Mr. O'Driscoll come in, he talked to them, and he asked me to speak to them to try and quiet them down.

Q. What else did you see going on on the first floor at that time?

A. Well, they were running around all over the floor there, some of them, there was two factions in there at that time.

Q. Now, the order of the Circuit Court had been made the day before, is that correct?

A. That is right.

Q. Were you permitted to go up and make an examination of this damage of which you learned—

A. Oh, no.

Q. —on that day?

A. No, indeed.

Q. Who refused to let you go up?

A. Sit-downers.

Q. Did you ask to go up or attempt to go up and were stopped?

A. Yes, but you couldn't—I couldn't get out of that office after I once got into that office, but there was several of the watchmen that made a round, that got around in on there.

Q. And what did you do?

A. They come down to me, the carpenter come down that was making the rounds, and he says, "For God's sake, can't you—"

MR. SIMONS:

Wait a second, I object—

MR. HIRSCH:

Now, leave out that conversation.

BY MR. HIRSCH:

Q. Just tell us what was going on on the first floor where they permitted you to be. What did you see the sit-downers doing in the office or any other place?

A. Well, they were walking around with clubs and different things preparing for when the police come down to put them out.

MR. SIMONS:

I object to that.

BY MR. HIRSCH:

Q. How do you know that?

A. Why, because I heard the conversation.

MR. SIMONS:

Wait a second, I object to conversations had with those people.

THE COURT:

Well, I don't think we need go into it.

BY THE COURT:

Q. They did go out the next day, did they?

A. They went out the next day.

Q. That was June 23rd.

MR. SIMONS:

And they went out of their own accord, and I think that should be put on the record, too.

MR. HIRSCH:

Well, as long as that is being put on the record we will show—

THE COURT:

Now, gentlemen,—

MR. HIRSCH:

—they didn't.

THE COURT:

—what is the use talking about it, that they went out of their own accord; they went out under the order of the Court.

MR. HIRSCH:

Of course.

THE COURT:

All right, go ahead.

BY MR. HIRSCH:

Q. Now, after you left the office where did you go?

A. I was herded into the yard.

Q. By whom?

A. The sit-downers.

Q. And what, if anything, did you hear or see when you got out into the yard?

A. Well, I heard the machines being smashed. I heard—you could hear the stuff being smashed right over there.

MR. SIMONS:

I object to that, if Your Honor please.

MR. HIRSCH:

That is not objectionable.

MR. SIMONS:

Well, now, I think we are getting into a lot of testimony that certainly is absolutely inac-

curate, and is merely guesses and surmises on the witness's part.

THE COURT:

Well, I think the witness can describe what the sounds were.

MR. SIMONS:

He can describe sounds if he heard any sounds,—

THE WITNESS:

Well, I did hear the sounds.

MR. SIMONS:

—not his assumption as to what happened.

BY THE COURT:

Q. Well, what did you hear?

A. I heard the sounds of the machines being smashed, and heavy stuff falling on the floor as it was being smashed.

Q. All right.

A. But I wasn't allowed to go upstairs to stop it, I couldn't leave that yard, and any of the sit-downers here, why, they can certainly tell you that I couldn't leave it, because they were walking around with guns in their pockets and blackjacks, brass knuckles, clubs, and stuff like that. A man isn't going to stand up in front of that, after you seen what happened there to the other ones, to try to defy them, that you are going up. Why, they would only kill you in there.

BY MR. HIRSCH:

Q. Now, several days later, or after they evacuated, you went up, did you not?

A. I did.

Q. And did you find—

A. The day that they evacuated the United States Marshal took me back and put me in the plant, after they were out.

Q. The same day?

A. That same day, and the—

Q. Did you then make an examination of this damage that you heard?

A. I did, but before I—before I was put into that mill the Marshal told me to stay in the car until he went over and spoke there to the ones that were in charge outside at the picket line, because you couldn't get through, and he did, and they agreed to leave me go in with another man, providing that I would take some of their men in with me and get their cots and belongings out, which I agreed to, and, of course, I took in two men, and the first thing we did, we went to the sixth floor and started coming down through the building.

Q. You did?

A. With the two men that were sit-downers in the place, to get their stuff out. I got the union's truck—they wanted me to bring the stuff out on Rising Sun Avenue, out the center gate, and I told them I would prefer to have their truck backed into our elevator entrance, because there is a steel door there that we have, it closed it, and we would load these cots and stuff in—

Q. Well, I don't want to cut you short on that, but the stuff was taken out. Now, I would like to direct you to damage that you found.

A. Yes, but the stuff wasn't taken out.

Q. Well, it isn't important to this issue whether it was or wasn't. Let's get down to the question of

damage, Did you make an examination on June 23rd,—

A. Yes, I did.

Q. —when you went in after the sit-downers evacuated?

A. That is right, I did.

Q. Now, what new damage did you find?

A. Well, there was an awful lot of machines smashed.

Q. Did you make a record of it at the time?

A. I did make a record. I made a record of that damage; and these machines also that were smashed. The two men that were in with me from the sit-downers, they seen it at the same time.

Q. Now, will you look at your memorandum of the new machinery damage which you found—

A. Yes.

Q. —on June 23rd, 1937, in your own handwriting, and which you noted in your own handwriting?

A. That isn't here.

Q. Well, I have a photostat. I don't know where the—you did make a memorandum on that day?

A. Oh, indeed I did.

Q. In your own handwriting?

A. Just roughly, of the damage.

MR. SIMONS:

I don't know anything about this.

MR. HIRSCH:

Neither do I. I will ask him about it.

BY MR. HIRSCH:

Q. Will you tell us whether this is a photostatic copy of the memorandum that you made covering the damage on June 23, 1937?

(The witness examined the papers).

A. That is right.

BY MR. HIRSCH:

Q. Is that in your—

A. This is my handwriting.

Q. That is in your handwriting. Now, looking at that memorandum that is in your handwriting, tell His Honor and the members of the jury how many machines, how many additional machines were smashed as you found them to be—

A. I would have to check—

Q. —on June 23, 1937.

A. I would have to check over this to see that, because they aren't listed here.

Q. Well,—

BY THE COURT:

Q. How many were there, can't you tell us? Can you give us a general description of what kind of damage was done,—

A. Why, yes.

Q. —the new damage?

A. This is the new damage. Well, your take-up rollers were taken off, the narrowing machines, the arms were broke, and the narrowing machines dropped down to the floor, needles broke out, heads, picot bars, everything that you could think of on the machines; even part of the castings were broke.

BY MR. HIRSCH:

Q. These are machines in addition to the thirty machines you described as being damaged—

A. That is right.

Q. —on June 10th?

A. That is right.

Q. Do you recall based on your recollection about how many machines there were? Don't guess if you don't recall.

A. I—

Q. Could you tell if you look at that?

A. If I check up on here I would naturally have it.

THE COURT:

Well, we will recess shortly and he will have a chance to do that.

THE WITNESS:

Yes.

BY THE COURT:

Q. Was it more damage than—

A. Oh, yes, this was all through the mill, then.

Q. This was the principal damage, was it?

A. This was the main damage to the machines.

THE COURT:

Yes.

MR. HIRSCH:

We have a record of the number, and we will show that.

THE COURT:

That is all right. He can do it during recess.

THE WITNESS:

Of course, I took just a rough check on this here, understand, there was things that were wrong on those machines when we come to put them together.

MR. HIRSCH:

I am only asking you as to the number of machines that were damaged—

THE WITNESS:

All right.

MR. HIRSCH:

—in addition to those that were damaged on June 10th. Well, will you look at that during the recess?

BY MR. HIRSCH:

Q. We will go on meanwhile with the rest of the examination. Now, you have heard the testimony of other witnesses that during the period of the sit-down strike the mill was in the sole possession and control of the sit-downers, is that correct?

A. That is correct.

MR. HIRSCH:

I want that because—

THE COURT:

Well, suppose at this point we recess for ten minutes.

(Recess at 11:10 o'clock A. M.)

J. ALLEN HARPER, resumed.

Direct Examination (Continued)

BY MR. HIRSCH:

Q. Now, then, directing your attention back to

the damage of the machines as you found it on June 23, 1937 during your inspection immediately following the evacuation of the plant by the sit-downers, are you able to tell us how many additional machines were damaged?

A. According to these records, approximately a hundred additional machines.

Q. And that was in addition to the thirty that had been previously damaged?

A. Yes.

Q. And was the damage on those hundred machines of a serious or of a minor nature,—

A. Serious.

Q. —as far as you observed? Could any of them be worked after they were damaged?

A. Oh, no.

Q. —without being repaired?

A. No, indeed.

Q. Now, during the period of the sit-down strike did you see any signs or placards on the building outside?

A. I did.

Q. I show you a photograph and ask if this correctly depicts the outside condition of the factory at the main entrance at Fifth and Luzerne Streets during the period of the sit-down strike,—

THE COURT:

Let me see it.

BY MR. HIRSCH:

Q. —as you saw it.

(The witness examined the photograph.)

A. That is right.

THE COURT:

Well, don't you think we have covered that ground so thoroughly, now, we all know that Mr. Leader was president of the union, and it seems to me that certainly a prima facie case has been established that the union authorized and maintained or adopted, at any rate, the sit-down strike; now, is there any use piling up evidence on that?

MR. HIRSCH:

I only wanted to offer it—

THE COURT:

If it is disputed, if the defendants take the position that the sit-down strike was not authorized by the union, or not ratified or adopted by it, then I will permit you to call any amount of rebuttal testimony that you may have,—

MR. HIRSCH:

That is satisfactory, sir.

THE COURT:

—but I don't think we need pile up on that point.

MR. HIRSCH:

That is satisfactory, sir.

Now, I would like to offer in evidence the memoranda which were made in this witness's own handwriting of the damage which he saw and recorded, in corroboration of his testimony. I offer them as a group exhibit, Plaintiff's Exhibit number 13.

I will do it this way: I will offer as Exhibit 13 the small handwritten memorandums of the wit-

ness covering damages found by him on various dates during the sit-down strike, and as Exhibit 14 the photostat of the memorandums he made of the damage he found on the premises to the machines on June 23, 1937, when he entered on the property after the sit-downers has evacuated.

(Handwritten memoranda of Mr. Harper relating to damages found on various dates during the sit-down strike were marked Exhibit P-13. Copies of these memoranda follow:

Exhibit P-13

“Thursday Eve. May 6—

Broke in Shop in Basement. Broke open all tool Drawers.

Broke in Drawers on Knitters Tables in isles between Machines.

Disconnected Main Telephone Switchboard.

Thursday Eve. May 6—

Broke into Cage in Basement. Broke open all tool drawers.

Wed. Night Broke 5 Benches in up yard, also booth. Burned same in Insinnerator Thursday May 26.

Cut.—Lead cabel on Fence to Bell Lines (cut. large Hole through fence.

May 14/37

5. AM Friday Morning call from engineer Sit downers broke in to old Mill through 2nd floor.

Replaced lock with there own giving key for watchman.

~~Monday~~ Night May 17

Broke 2 Doors to Roof.

Sunday Night May 23

Smashed Recording Clock and Equipment in Watchmans Booth in yard.

Tuesday Night May 25

Toor off light and smashed Telephones. Basement:

Monday Night May 17

Broke Doors to Roof.

Sunday Night May 23 Clock & Equip in watchmans shanty.

Tues Night May 25 light and Telephones in Basement—Yarn Dept.

May 26—Broke Big Gate to Inner Yard.

May 26—Wed Broke Big Gate to Inner Yard.

Thursday May 27 Broke Door to Roof Toor off casing.

Broke large glass tabel top. 1st floor 7/8 x 42" x 8'-0".

Thursday Afternoon May 27—Broke window frame North East Corner 2nd floor No. 5 Bldg.

Forced 2 steel windows frames to Dye House.

Thursday Afternoon May 27—Broke Window Frame North East corner 2nd floor No. 5 Bldg.

Forced—2 windows Steel Frames to Dye House.

Thursday Evening May 27—Broke Door to Roof. Center toor of casing.

Broke large glass tabel top. South End No. 1 Mill.

Locked cabinets May 28/37.

Friday afternoon. Where half hose & Seconds where in.

Saturday morning May 29 found 3 counters on examining tabels 2nd floor Broken.

Saturday May 29—found counters on Examining Tabels broken 3.

75—3rd Press off stockings.

Monday Morning discovered June 7th 37 fixed same up.

June 8/37 (Tuesday Night)—In Mr. Meyer's Office took Cigars from Box also took—full can of Cigars—

Removed light from Desk.

June 9/37 Wednesday Night.

Bent over 298 Metal Separators on Spinning Machines—4th old Mill or No. 2 Bldg.

June 10 37 Thursday about 11 00 smashed needles knitting Machines 4th floor.

Thursday afternoon smashed needles 3rd floor.

Sunday Night June 13/37 Door to 6th floor South End Store Room forced open.

226—4th press off Monday Night.

June 14—Smitty reported.

June 15—Tuesday night.

Celling light broken in South End basement.

June 15 Tuesday Eve.

Lock placed on second floor Door to Anix.

Carpenter fixed steeple for lock.”)

Photostatic copies of memoranda made by Mr. Harper relating to damages noted to machines on June 23rd, 1937 were marked Exhibit P-14. Copies of these memoranda follow:

Exhibit P-14

“6th Floor

- # 1—Narrowing Mach (Lock stich) (picot)
- # 2— “ Mach (picot Bar 1) needles
Bent carriers
- # 3— “ “ “ “ needles
- # 4— “ fingers “
- # 5— needles
- # 6—OK
- # 7—OK
- # 8—OK
- # 9—OK
- # 10—carrier fingers ,sinks needles
- # 11—OK
- # 12—OK
- # 13—OK
- # 14—OK
- # 15—OK
- # 16—OK

17—OK	
18—OK	
19—OK	
20—OK	
21—OK	
22—OK	
23—OK	
23—OK	
25—OK	
26—OK	
# 27—OK	74—OK
28—OK	73—OK
29—OK	72—OK
30—OK	71—needles
31—OK	70—OK
32—OK	69—OK
33—OK	68—OK
34—OK	67—OK
35—OK	66—needles
36—OK	65—OK
37—needles	64—OK
38—needles picot nar. points	
39—needles	
40—needles picot nar. points wing	
41—needles picot sinkers	
42—OK	75—needles & picot nar. mach
43—OK	76—needles & picot nar. mach.
44—needles? 10'	
45—OK	
46—OK	77—OK
47—Picot— needles	78—nar. mach.
48—picot	79—OK

49—picot mach.
carriers

80—OK

50

81—needles picot

51—needles

82—needles picot

52—OK

83—OK

53—OK

84—OK

54—needles

85—OK

55—OK

86—needles

56—OK

87—narr. picot

57—needles

88—needles picot narr.

58—needles

89—OK

59—needles

90—OK

60—OK

61—OK

62—OK

63—needles

5th floor

172—needles and Picot

171— “ & “

170—OK

169—narr. rack index lever

168— “ “ index lever—clean machine
(to if Handsoap

167— “ “ “ “ —needles

166—OK

165—OK

173—OK

174—OK

175—OK

176—OK

177—OK

178—OK

179—OK

164—Sinkers—needles—picot narr. points

163— “ “ narr. points

162—OK

161—OK

160—OK

159—OK

158—narr. pts. picot needles

157—narr. pts. needles

156—narr pts.

155—narr pts.

154— “ “ needles

153—OK

152—narr pts.

151—OK

150—narr. rack

149—narr rack

148—narr pts. picot needles

147—narr pts. picot needles.

All picot Bars	{	No. 1 Machine 6ty picot bar Control chaff
		No. 2 Picot Bar & Carriers
		No. 3 Picot shaft needles
		No. 4 Needles I head
		No. 5 Needles
		10 Carriers & needles
		11
		12
		71 81 Wing
		66 narrowing machine needles sinkers & Etc
63 82 49 picot shaft		

Exhibit P-14

449

59 76
58 75
57 86 needles
54 88

48 picot shaft

47 picot shaft

41 needles

points

BR Sinkers

& Etc

40 Shot

39 shot

38 shot

37 shot

51 New Job

NOTE looks like cams may be loose

(29)

154

150

149

148

147

24

(29)

172 shot complete whole top

171 shot complete whole top

pans and all

(5th)

168 needles and grit put in over all parts (re-built)

(167—needle Bar one section)

145

146 sinkers needles & kno

94 needles

122

98

123

101

124

107	126 shot
112	164 shot
clean 118 glass Labor	163 shot
	158
	157
155	156

Clock on floor

4th old mill

silk cut

2nd floor

S w 3 Brackets for spool

Traugh ht Broket off

S W 5 Swift Bracket Broken

2 floor loopers

36
 39 points
 40
 61 points
 71 points
 82 points
 85 points
 116 points
 120 points
 96 points
 142 points

3rd floor

78— Needles
 56— Needles
 41—42 Needles sinkers
 39—38 Needles sinkers

3— 4 needles sinkers
12 needles
13 needles points
18 needles
19—20 needles
22 needles points
23—24 needles points
25 needles
27 needles
29—20 shot
31—32 shot
33—34 shot
35—36 shot points (30)
75— shot
74 shot
66 shot
57 shot

4th

229—needles
222—needles—narrowing points
221—needles
191—needles
192—needles
193—needles
194—needles
195—needles
196—needles
197—needles
198—needles
199—needles
200—needles
201—needles shot
203—needles

204—needles

205—needles

206—needles

207—needles

208—needles

209—needles

210—needles

211—needles

212—needles

215—216 needles points

252—251 needles points

250-249 needles

(32)

246—245 needles points)

Left Column	Center Column	Right Column
199	1937	181
4.7-10	235	182
11/20	239	183
200	240	184
	241	185
	242	186
14/20	243	187
204	244	188
205		189
216		190
	245	191
0/20	678910 N	192
206	78910 M	193
207		194
3/20	141520	195
	206	196
0/20	247	197
209	248	198
210		199
211	249	200
212	141520	201
213	250	202
214		203
215		204
216		205
217		206
218		207
219		208
220		209
221		210
222		211
223		212
224		213
225		214
226		215
227		216
228		217
229		218
230		219
231		220
232		221
233		222
234		223
235		224
236		225
237		226
238		227
239		228
240		229
241		230
242		231
243		232
244		233
245		234
246		235
247		236
248		237
249		238
250		239
		240

87-17181920 = (4)

38-156 = (6)

3rd floor

174
102
—
276

10
286 - 7406

38 P Bais

Total Fortified Demagrel
165
H. J. J. J.

165.8417
Mag 08200
H. J. J. J.

BY MR. HIRSCH:

Q. Now, in addition to the damage which you described what other damage did you discover on June 23rd? How about the cellar? I was trying to help you.

A. Oh, yes, the pumps in the cellar were damaged. That happened just before they went out, because if they damaged them pumps say four or five hours before they went out the cellar would have been flooded. They are the sump pumps, and they pump the water out from the springs and things below the floor, also the water coming from the ice machine,—

Q. How were the pumps—

A. —from the condensers.

Q. —damaged?

A. Why, they put something through them and broke the brush rigging and all right out of them in the top.

Q. And what other damage did you notice on June 23rd which you had not noticed prior to that date?

A. Well, there was additional clocks smashed, and tore. The big clocks through the center, they were tore down.

Q. What kind of clocks were they, and how big are they?

A. Well, they are, I judge, twenty-four inch face on them, and there is a double face, there is a face on both sides.

Q. Are they the clocks that hang in the middle of each floor where the workers are?

A. That is right, and they hang from the ceiling, they suspend from the ceiling. They were tore right down off from the ceiling and smashed on the floor.

Q. Now, on June 23rd when you went back on the property did you find anything there which was not there during the ordinary and normal operations of the business prior to May 6th?

A. I did, we found clubs and blackjacks, brass knuckles, and different things of that type:

Q. And—

A. Pieces of shafting drilled to make blackjacks out of.

Q. And did you gather them together—

A. I did.

Q. —and put them in a box?

A. I did.

Q. Is the box that is on the floor before the jury the box in which you placed these articles?

A. That is right.

Q. Now, this box was opened here in court today. Did you observe how it was closed, today?

A. Before it was opened I looked at it.

Q. And was that in the same condition as it was when you—

A. It was.

Q. —closed it back in June of '37?

A. It was.

Q. Now, will you open that box and tell us whether these are the things you found, and show them to the jury? These are the things which were never on the premises prior to May 6th, 1937, is that correct?

A. That is right. There is a few brass knuckles.

Q. What is that? Explain that for the lady members.

A. That is a brass knuckle that they put in their hand, and when they hit you with it, why, of course, the damage is done by the front of it.

There is blackjacks, pieces of steel pipe here, made up as clubs.

Q. Show that.

A. This is what they call a blackjack. It has got lead in the side.

Q. What is that steel?

A. Well, that is a piece of shafting that they drilled out. This is the articles that they carried with them when the watchmen went through, and at all times they had different stuff like this with them. They had ropes with different things placed on them, different things made up (indicating).

Q. What is in that rope?

A. There is iron in the end of it, piece of iron in the end of it, that they used. They had baseball bats and things like that that they carried through at all times, that is in there. This hammer that is there was found on one of the machines that was smashed (indicating).

MR. HIRSCH:

I offer that as a total exhibit, Plaintiff's Exhibit number 15.

(Box containing blackjacks, brass knuckles, pipes, etc., was marked Exhibit P-15.)

BY MR. HIRSCH:

Q. Now, what, if anything, did you find left behind by the sit-downers in so far as records and other things were concerned?

A. Why, there was lots of different records there, that they left behind with the sit-downers, names on, the time that they left the building, and the time that they come in, and different cards there with the lost and found, that they had gone through the drawers

there and taken jewelry out, and they had a card posted up to that effect, that is there.

Q. I show you a number of papers and ask you to look at them carefully and tell us whether or not these are the papers which you found on the premises, and then tell us generally, just describe them in general, what they are.

(The witness examined the papers.)

A. This card here was posted up, things that were taken out of the drawers. Steve Middleton there was in charge of that.

BY MR. HIRSCH:

Q. Who was Steve Middleton?

A. He is one of the sit-downers.

Q. All right, now, what else did you find, without going into great detail?

A. These papers here indicate the time that the men went in and out.

Q. These were the sheets kept by the sit-downers, you say?

A. That is right, and each one had a number, see, the sit-downer had a number, because they did most of this work right in the office. I seen this work being done. Their pay papers and stuff were made up in the office.

Q. And these are the sheets that you saw them prepare?

A. Yes, some of them.

Q. And that shows the time of the men, and are there any other sheets there covering committees or anything else?

A. Some of the additional cards that were found in the place.

MR. HIRSCH:

And the witness refers to additional cards.

MR. SYME:

Your Honor, of course, I am not objecting to all of this, but really I think that your previous ruling covers it. I mean, I understand some of these missiles, but I don't see the purpose or the point in all of these notices and communications.

MR. HIRSCH:

Well, I will cut this short very quickly.

BY MR. HIRSCH:

Q. Do you have any small cards there? Did you find these pink cards on the premises (indicating)?

A. That is right, they had trucks there, our work trucks, that they had placed locks on to keep their papers in. Some of these was left in the trucks.

Q. And these are cards with the signature of William Etter which you found there?

A. That is right.

THE COURT:

Well, now, gentlemen,—

MR. HIRSCH:

I am through with that line.

THE COURT:

—I have very definitely expressed what I think about the measure of proofs here.

MR. HIRSCH:

I am through with that line.

THE COURT:

I am not going to foreclose anything, and if

these facts are disputed you can call evidence in rebuttal.

MR. HIRSCH: .

Well, let me have these as one group exhibit, then, the matters found on the premises by the witness.

THE WITNESS:

This book here was taken out of our locker.

MR. HIRSCH: .

You found that there. That will be a group exhibit, 16.

(Folder containing records and memoranda found on the premises by Mr. Harper was marked Exhibit P-16.)

Cross Examination

BY MR. SYME:

Q. What was your job in the plant prior to May 6th?

A. Maintenance engineer.

Q. Maintenance engineer. What duties do you have as the maintenance engineer?

A. I cover all maintenance in the plant with the exceptions of the machinery.

Q. I see.

A. That is, of the knitting machines, but I place the machines when they are put in new, I lay out the lines and things for the setting of the machinery.

Q. But you don't take care of the knitting machinery.—

A. Only—

Q. —or you didn't take care of it?

A. Only the electrical equipment on the machines.

Q. That is right, but you don't take care of any of the knitting machines and didn't take care of any of the knitting machines prior to May 6th or subsequent thereto, is that right?

A. No, I don't take care of them.

Q. That is right. Therefore, you wouldn't know what the condition of the machinery was prior to May 6th?

A. Oh, yes, I am very familiar—

Q. How would you?

A. —with the machines. I can tell you almost anything on the machine.

Q. What is that?

A. I can tell you almost any part of the machine. I am very familiar with it.

Q. I am sorry, I didn't want to interrupt you, but you didn't see any of the machinery, didn't go through any of the machinery prior to May 6th?

A. Every day I go through the mill, all over the mill. I do travel from the top to the bottom every hour of the day.

Q. But you don't take care of any of the knitting machinery?

A. Only the drive of the machinery. If there is anything wrong on it, then I had my men go on that.

Q. Would you know in general what the condition of the machinery was; I mean, not with respect to its being broken or not, but there was some of the machinery that was either obsolescent or obsolete, isn't that right?

A. Not any in there.

Q. You have no machinery in the Apex Hosiery Company that is—

A. Absolutely not, that is all first-class machinery in there.

Q. You have no machinery there that has been depreciated once before?

A. Oh, machinery depreciates if it is there any length of time.

Q. Don't misunderstand what I mean. When I say "depreciated", I don't mean "depreciate". What I mean is this, you have some of the machinery that has been paid for over and over again, isn't that right?

A. Well, that there,—

MR. HIRSCH:

Objected to.

A. —I couldn't tell you that.

BY MR. SYME:

Q. Oh, you don't know.

A. Not if it is paid for over and over again, because I don't keep production there; I couldn't say whether the machine paid for itself or not.

Q. Would you know whether any of the machinery is antiquated,—

A. Well,—

Q. —and has to be replaced by new machinery?

A. I would—I would know according to the sinkers, if it was making lines, or something like that, that they naturally needed new sinkers, dividers, or there would be some cause on that, but those machines are all taken care of on that, they are changed all the time.

Q. Isn't it a matter of fact that some of the machinery that was there had to be rebuilt entirely so that it might be useful?

A. It is at all times, we go over our machinery that way.

Q. Not repaired, but rebuilt.

A. Not rebuilt, there is none of it being rebuilt. They re-sinker them and re-needle them, and things like that at all times. They don't let the machinery go down in that plant.

THE COURT:

I am wondering, Mr. Syme, whether this cross examination would not be properly addressed to a witness who testifies as to the values. This witness has not mentioned dollars and cents at all. He has just testified to certain physical injuries that he saw which you or I, probably, could testify to just as well. I believe that you will have to go over all that you are doing now, all this cross examination will have to be gone over with a witness who testifies as to dollars and cents damages.

MR. SYME:

Well, if Your Honor feels that it is not pertinent at this time that is perfectly all right.

THE COURT:

I don't believe it is. I don't believe it helps. I don't believe it helps us at all at this point.

BY MR. SYME:

Q. When did you say you were taken out of the plant into the back yard and you heard these noises?

A. That is the—that is the day before they were evicted, I believe it was the 22nd, if I am not mistaken. They were evicted on the 23rd, I think.

Q. It was the 22nd, you say?

A. I believe it was, yes.

Q. At what time?

A. Well, we went out there about nine o'clock in the morning, I judge, we were put out there at nine o'clock, herded out into the yard, all of us, watchmen, anybody that I had in the place, in the inner yard, that we couldn't get out to the street, only by having a ladder to go over the top of a one-story building there, over the back fence.

Q. Then you are pretty certain that this happened on June 22nd at nine A. M., is that right?

A. It happened from that time right straight through.

Q. Yes, but I mean at nine A. M.—

A. Until we got out.

Q. At nine A. M. you were herded into the back yard?

A. Well, it was approximately that time.

Q. Yes, I mean nine or nine-fifteen.

A. I will tell you why I am sure of it. We were out in the yard about two hours and I asked them if there wasn't any chance of my sending one of the men out to get some lunch for us, and they said, "Absolutely no, we will give you lunch in here", and, of course,—

Q. That was about eleven A. M., you would say?

A. Yes, that was around eleven, half past eleven, I guess.

Q. So that you would say at nine A. M. you were herded into the back yard on June 22nd?

A. Well, approximately around that time.

Q. All right, I am not holding you,—

A. Yes.

Q. —it is around nine, nine-fifteen, nine-twenty, that is all right.

A. Yes, that is right.

Q. At that time you say you and the others were herded into the yard?

A. That is right.

Q. And you heard this noise?

A. That is right.

Q. You are positive it was that time?

A. From that time, on.

Q. On, that is right?

A. To the time we got out of the building that night. We got out approximately half past six that night, had to get permission from an outsider to get out—

Q. Wait a minute,—

A. —through that gate—

Q. Wait a minute,—

A. —on Rising Sun—

Q. —you have testified to that. I am trying to fix the time that you heard this noise.

A. It run from nine or nine-thirty in the morning on right straight through until I got out.

Q. From nine-thirty in the morning until six in the evening, is that right?

A. Yes, that is right, whatever time it was we got out.

Q. You heard these noises going on all day?

A. Yes, all different noises. Now, understand, it wasn't just rumble all the time, there would be like an intermission in it, and then again it happened.

Q. You have testified to the fact that Bill Etter fingerprinted you?

A. Yes.

Q. Is that right?

A. That is right, he fingerprinted all of us.

Q. You don't know that Bill Etter fingerprinted

all of the sit-downers and had that given to the police department, do you?

A. He—just a minute—he didn't fingerprint all the sit-downers, either, he only fingerprinted until we come up, and he says, "Come on, fellows, that is what we want", and out he goes.

Q. Well, I say, you don't know whether he did fingerprint—

A. He—

Q. —and give it to the police department?

A. He did fingerprint a few of them.

Q. And—

A. I don't know what he done with them.

Q. I see.

A. Whether he gave them to you or who he gave them to, but as soon as we were fingerprinted that was the end of it, that is all he wanted.

MR. SYME:

That is all.

MR. HIRSCH:

That is all.

MR. HIRSCH:

If Your Honor please, I am prepared from this point on to go into the question of figures on damages, and so forth, and if Your Honor will indulge me it may be necessary in order to get a continuous story to put a witness on the stand and then take him off,—

THE COURT:

Yes.

MR. HIRSCH:

—and then put him back on.

THE COURT:

That is all right. Now, I assume that your proof will consist of the cost of repairs to—that is, part of your proof will consist of the cost of repairs to each of these individual machines, is that so?

MR. HIRSCH:

Well, that will be part of it, and then also the cost of repairs to the property itself.

THE COURT:

Yes. Well, now, I am wondering if it is necessary to take that up item by item, whether we can't properly take these machines as one unit, and have your witness testify as to cost of repairing of these machines, but have all the data present in court as to the condition and cost of each individual machine, and then permit as full a cross examination as counsel wants to engage in, because it doesn't seem to me it is necessary—it will take us all day and more to go over each one of these individual machines and discuss the number of needles—

MR. HIRSCH:

Well, I had anticipated that, sir,—

THE COURT:

—injured—

MR. HIRSCH:

—and I have asked the representatives of the machine company, the Reading Textile Machine Works, to be here at twelve o'clock.

THE COURT:

Yes.

MR. HIRSCH:

And they will bring with them all of their records showing every bit of labor and material that went into every machine, and they will be available to the defendants.

THE COURT:

Yes, I think it will be all right if you treat the repairs to machines, for example, as one unit, and—

MR. HIRSCH:

And I am likewise prepared to do that with the other items of damage. In fact,—

THE COURT:

All right.

MR. HIRSCH:

—in the statement of claim I have broken down the items of damage, and we have here in court all of the bills—isn't that right, Mr. Steeple? —all of the bills and invoices and checks for every item.

THE COURT:

Well, all right, you go ahead and we will see how we work it out. I wouldn't start in, however, machine by machine, because there are a couple of a hundred of them.

MR. HIRSCH:

Well, I think we can expedite it under that plan, Judge Kirkpatrick, but I may have to ask your indulgence, sir, in putting them on and off the stand,—

THE COURT:

Oh, yes.

MR. HIRSCH:

—certain people.

THE COURT:

That is all right. We will meet that as well as we can.

MR. HIRSCH:

Mr. Steeple.

MR. SIMONS:

May I just state this, Your Honor, I have been thinking about the matter of the approach to that. Of course, we would want to have some opportunity to go over all those bills.

MR. HIRSCH:

They have all been gone over by your accountant previous to trial.

MR. SIMONS:

As I have explained, our check has been limited to the question of whether or not you have such bills and have such checks and made such payments.

THE COURT:

Oh, yes, we will have to meet that as it arises. I do not want to deprive you of any rights in connection with testing the accuracy of testimony that is given here, and I will see that you get full privilege to do everything that is reasonable along that line.

MR. HIRSCH:

They may have full access to everything we have.

THE COURT:

Yes.

MILTON S. STEEPLE, having been duly sworn,
was examined and testified as follows:

Direct Examination

BY MR. HIRSCH:

Q. Mr. Steeple, what is your position with the Apex Hosiery Company?

A. General office manager.

Q. And for how many years have you been with the company?

A. Twenty-two years.

Q. And are all the books and records of the company kept under your supervision?

A. They are.

Q. Without reference to what occurred on May 6th, you were on the premises, and heard testimony of other witnesses, and your recollection is similar?

A. I did.

Q. Now, direct your attention merely to the question of repair of damage to plant and equipment. Who repaired the damaged knitting machinery?

A. Reading Textile Machine Works.

Q. Now, in addition to the machine damage there was other damage as described by Mr. Harper and as described by other witnesses which had to be repaired, is that correct?

A. That is correct.

Q. What method or system did you set up in your office so that you might be able to have an accurate and complete record of all damage to the plant and machinery and equipment, and the nature of the repairs and cost of the repairs?

A. I deemed it advisable to set up a separate set of books and a separate checking account.

Q. In other words, you set up a separate—

A. Separate set of books.

Q. —organization of information, so to speak, in which you put all this information of damage?

A. Yes.

Q. And the cost of repairing?

A. That is correct.

Q. And you ran your own bank account to pay for that?

A. That is true.

Q. And are your records full and complete on this item of damage?

A. They are.

Q. On these items of damage. Now, in addition to those books have you kept in your possession all of the invoices which you received for the doing of the repairs, and all of the cancelled checks which you issued in payment of those repairs, together with all other information and data pertaining to this damage?

A. I have, and they are in the court here.

Q. And did you at my request separate all of the items of repair exclusive of damage to the machinery, which will be testified to by the Reading Machine Company, into folders corresponding to the items of damage for which claim has been made in this case?

A. I did.

Q. Now, at the time these books were set up did your company have an outside certified public accountant?

A. They did.

Q. And what was the name of that accountant firm?

A. Mathieson, Aitken and Company.

Q. Mathieson, Aitken—

A. Aitken.

Q. —Company, and who was the representative of that company who was most active in connection with the auditing of your books?

A. Mr. Langer, L-a-n-g-e-r.

Q. He is in court?

A. He is.

Q. And for how many years had they audited your books?

A. I would say approximately ten or twelve years, at least.

Q. And they were your regular accountants at the time of this damage?

A. They were.

Q. What, if anything, did Mr. Langer do with regard to the damage? Just tell us generally, I don't want you to—I will prove it through him.

A. Mr. Langer when we first got possession of the plant was directed to go in there and make an itemized list of all damages, which he did.

Q. Is this the itemization that was prepared by Mathieson, Aitken Company of the loss and damage to plant, machinery, equipment and personal property during the sit-down strike?

MR. HIRSCH:

I will show it to you in a minute. I am not going to offer it, I just want to have him identify it.

BY MR. HIRSCH:

Q. That was a general survey, so to speak, wasn't it?

A. It was a complete survey.

Q. And did Mr. Langer—how often was he in touch with you during the time that these books and records were being maintained?

A. He collaborated on them continually.

(The report was shown to counsel for defendants.)

MR. SIMONS:

May we see you a minute?

MR. HIRSCH:

I wouldn't do it at the moment. I will withhold it.

MR. SIMONS:

Come on up.

MR. HIRSCH:

All right.

(Discussion at side bar.)

BY MR. HIRSCH:

Q. Now, Mr. Steeple, claim has been made in this action for the damages sustained by the company in having to replace broken windows. Are all of the records which you have here in court relating to, and do they only pertain to the damage done on or after May 6th?

A. That is correct.

Q. And in all of your answers and in your production of any documentary evidence you understand that you are to exclude any repairs that were made by reason of ordinary wear and tear, or any repairs that were made by reason of anything that may have existed prior to May 6th, and you have done that—

A. I have done that.

Q. —In the preparation of these documents? Now, will you produce all of your records—by that, I mean your original records, invoices, and payments, check—covering the glazing of windows?

A. Yes.

Q. And tell us the amount of those payments, and just to complete my preliminary examination, I am referring to damage done between May 6th and June 23rd, 1937, is that correct, the date that the sit-downers evacuated.

THE COURT:

Yes.

THE WITNESS:

You mean—

BY MR. HIRSCH:

Q. When I refer to damage I am talking of damage done during the pendency of the sit-down strike.

A. One hundred and twenty-one thousand, nine hundred—

BY THE COURT:

Q. How much?

A. One hundred and twenty-one thousand.

BY MR. HIRSCH:

Q. For glazing windows?

BY THE COURT:

Q. What?

A. Just for glazing windows? Oh, I thought you wanted the entire amount.

Q. Well, let's have the entire amount.

MR. HIRSCH:

All right, exclusive of machine damage.

A. I might state that these figures agree with the items in the claim, individual items in the claim.

BY MR. HIRSCH:

Q. In other words, you have set up all of your original memoranda in a manner that coincides with the items in the claim?

A. In the proper order that they are listed in the claim, also.

Q. Now, give us the total exclusive of machine damage.

THE COURT:

Where is the claim? I haven't got the claim, have I?

MR. HIRSCH:

Statement of claim.

THE COURT:

Is it the statement of claim? Well, all right.

MR. HIRSCH:

Strike that question.

BY MR. HIRSCH:

Q. Give us the total including the machine damage, and then excluding it, and then we will break it down.

THE COURT:

All right.

A. \$121,957.47.

BY THE COURT:

Q. Does that include machine damage?

A. It does.

BY MR. HIRSCH:

Q. That represents the amount of money your company actually paid for the repair of physical damage to the plant, machinery and equipment?

A. That is correct.

Q. Does that include damaged hosiery?

A. That does.

Q. It does?

MR. SIMONS:

Of course, that is subject to our objection, if Your Honor please, as a general statement.

THE COURT:

Yes, well, that is all right, surely.

BY MR. HIRSCH:

Q. Does that figure in any way include loss of profits or the other items for which claim is made?

A. No items excepting the actual bills, which we have here for the physical damage.

Q. And has every bit of that, or was all of that figured, the entire amount, actually paid out by your company in the repair of that damage?

A. It was.

Q. Are you including any figures which constitute merely appraisals of the damage which you never had repaired?

A. No.

Q. In other words, the figure which you have given us relates solely to damage which was actually repaired, and solely to damage found on the prem-

ises between—or, which happened on the premises between May 6th, 1937 and June 23, 1937.

A. That is correct.

Q. Now, then, will you break down that figure and tell us how much of that figure represents the amount of money paid by you to the Reading Textile Machine Works for its work on the machines?

MR. SIMONS:

Of course, our objection goes to that line as well.

MR. HIRSCH:

We will follow that up with the people from Reading, who I understand have just arrived.

THE WITNESS:

I have to consult with the item of claim there.

THE COURT:

Yes, it is all here. Then I won't have to make a memorandum.

THE WITNESS:

Yes.

BY THE COURT:

Q. And you are testifying exactly as in the item of claim?

A. Absolutely.

BY MR. HIRSCH:

Q. Now, just as a matter of expedition, just for this general information, haven't you got a machine rebuilding account showing the Reading end of the work?

A. I can get it from here.

Q. I have a copy somewhere. I can't find it.

Here it is. Will this help you? Do you have something like this? Well, will you use this?

MR. HIRSCH:

With your permission, Mr. Syme, may I use this for the moment?

(A paper was shown to the witness.)

THE COURT:

All you want is the total figure—

MR. HIRSCH:

That is all.

THE COURT:

—to subtract.

MR. SIMONS:

It is all taken subject to the objection.

MR. HIRSCH:

Yes, certainly.

BY MR. HIRSCH:

Q. Look at this and give us the total figure, please, covering the Reading work, or the work that was done by the Reading Textile Machine Company.

A. \$67,776.15—or 16, that is, I guess.

Q. Now, that figure is part of the \$121,957.47 which you referred to?

A. That is correct.

Q. And that leaves \$54,181.32 of damage?

THE COURT:

Let's call that plant damage to distinguish it from machine damage.

MR. HIRSCH:

Well, that wouldn't be completely accurate, sir, because in that figure we will show that we did some repairs to the machinery which was not damaged but which had been permitted to remain idle and corrode and rust. We did that with our own—

THE COURT:

Still, call it plant damage,—

MR. HIRSCH:

All right.

THE COURT:

—and that means all the damage exclusive of the repairs to the machines made by the Reading Textile Machine Works.

MR. HIRSCH:

All right, and the plant damage was \$54,181.32.

BY MR. HIRSCH:

Q. Now, will you break that item down according to the envelopes which you have there, which as I understand contain invoices and other original information?

A. That is correct.

Q. Now, will you give us that information?

MR. SIMONS:

Of course, if Your Honor please, our objection goes to this. Now, he is getting into some of the details; and I feel that we are being charged with lump sum payments. There is no evidence as yet, unless Mr. Hirsch intends to

follow it up, as to whether or not all of the repairs set forth there were necessary as a result of the claim, whether or not they were the fair, reasonable charges for all of that.

THE COURT:

Oh, well, I assume it will be followed up with all that. Of course, it must be.

MR. SIMONS:

Your Honor will take that, then, subject to my objection?

THE COURT:

Certainly.

THE WITNESS:

Do you want me to answer as to each item?

THE COURT:

Just take it from your statement of claim.

THE WITNESS:

Yes.

THE COURT:

Begin right down the line there.

THE WITNESS:

Glazing of windows, \$830.08.

BY MR. HIRSCH:

Q. Now, just before you get down as to each item, you have an envelope there with the supporting data for that?

A. Each one of those.

Q. Go ahead.

A. Each one of these I read, we have the invoices here to support.

Q. Go ahead.

A. Plumbing repairs and supplies	\$ 359.10
Hardware repairs and supplies	659.01
Electrical Repairs and supplies	776.73
Painting	98.06
New front door	274.00
Repairs to time recording system	895.00
Repairs and replacement of fixtures	3,500.00
Replacement of broken tubes for vapor lights; that is the light- ing system	1,460.70
Repairs and replacements to stencil machine	269.25
Repairs to multigraph equipment	106.71
Repairs to label pasting machines	180.00
Repairs and replacement of sealing machine	119.35
Miscellaneous repairs and replace- ments of mill furniture and equipment	668.19
Repairs to desks, typewriters, adding machines, et cetera	1,561.76
Labor costs for repairing other dam- aged office equipment	1,000.00
Repairs to and replacement of Vene- tian Blinds in office and plant	1,066.00
Repairs and miscellaneous replace- ment to office equipment	40.94
Miscellaneous repairs in office and plant	1,130.92
The item of additional miscellaneous damage	1,508.08
Machinery (other than knitting ma- chines)	527.15
Miscellaneous labor repairing dam- age	360.00

Repairs to fence	37.50
Inventory shortage	2,593.50
Damaged hosiery	1,229.59
Labor costs for sorting wareroom merchandise	623.99
Silk and yarn waste on damaged machines	731.93
Stolen mill supplies, including 6000 45 gauge Reading split dividers, 19 mending hooks, and miscellaneous supplies	2,098.29

Q. Now, while we are on that point, were all of the items which you read—items of repairs by reason of damage caused to the various equipment that you related or detailed after May 6th and during the period of the sit-down?

A. That is correct.

Q. And in so far as the inventory shortage and damaged hosiery was concerned, was that what you found after you resumed possession of the premises,—

A. That is correct.

Q. —as having occurred during the period of the sit-down?

A. That is what we found to be missing.

BY THE COURT:

Q. Well, let me ask you one thing, you say "After May 6th." Have you excluded damages that took place on the 6th of May? Is that included?

A. That is included.

BY MR. HIRSCH:

Q. I mean—I was wrong—on and after.

A. From the time the plant was broken into.

THE COURT:

All right.

MR. SIMONS:

May I enter my objection to that at this time also, if Your Honor please, so the record will show that the question may be of money that they may have spent, but not necessarily of damage that was done?

THE COURT:

Well, it is understood that your testimony is the money spent,—

THE WITNESS:

Absolutely.

THE COURT:

—and, of course, it will have to be shown later on that that is reasonable and proper cost of repairs, but all you are testifying—

BY THE COURT:

Q. When you use the word “damage” you simply mean—

A. General.

Q. —the money you spent for repairs?

A. Absolutely.

THE COURT:

All right.

BY MR. HIRSCH:

Q. Now, while we are on that point, Mr. Steeple, was any of this damage caused prior to May 6th?

A. No.

Q. And were any of the sums paid out by your

company for any reason other than the fact that they were necessary in the repair of damage done on or after May 6th?

MR. SIMONS:

I object to that, if Your Honor please. I think we understand quite well just what Mr. Steeple has testified to.

THE COURT:

I think so, too.

MR. SIMONS:

And I don't think Mr. Hirsch should try to get anything on the record to indicate it is other than moneys that they claim that they spent.

THE COURT:

That is what it is.

THE WITNESS:

I haven't read all the items of damage yet.

BY MR. HIRSCH:

Q. Well, go ahead. You may proceed further.

A. Repairs to roof \$47.60

MR. SIMONS:

Just one second, also, and I think Mr. Hirsch will agree, with the items as to the merchandise that Mr. Steeple has just read; that is also an estimate as prepared by him as to what he—what their records show to be the value of that, without proof or accepting it as proof that it was worth that much.

THE COURT:

Well,—

THE WITNESS:

Which items do you have reference to?

THE COURT:

—do you mean the missing merchandise?

MR. SIMONS:

The missing merchandise.

BY MR. HIRSCH:

Q. All right, where did you get the figures which you have as to value?

A. Had to use an average price, because we couldn't establish exactly everything that was gone.

Q. You used an average price? What do you mean by, you couldn't establish everything that was gone?

A. We could establish—

Q. Talk so the jury can hear you.

A. We could establish it in bulk from the inventory which we took after we gained possession of the plant.

Q. Well, you knew how much you had on May 6th?

A. That is right.

Q. You knew how much you found on the 23rd?

A. That would be the difference.

Q. Then you took for that an average price—

A. Yes.

Q. —during that period?

A. That is correct.

Q. And that is the way you got that figure? All right.

MR. SIMONS:

If Your Honor please, I don't know whether they intend to go into that particular question on the loss, but I object to it if it is a matter that he is merely stating or he is guessing as to what it is worth. If you are merely accepting it now as a general statement to sort of present the entire matter, and then go into details; I can understand it, but if that is going to be presented as the sole testimony, on that score I object to it at this time,—

THE COURT:

I don't—

MR. SIMONS:

—in addition to my general objection.

THE COURT:

I don't grasp your idea, Mr. Simons.

MR. SIMONS:

Well, he has made a statement here that certain merchandise was missing, certain he assumed was stolen, and a certain amount of waste, and he has given us a figure, a dollars and cents figure for that.

THE COURT:

Yes, and he tells you how he got that.

MR. SIMONS:

Well, now, if that is evidence he will have to show us his records for his inventory at the beginning of that period on May 6th.

THE COURT:

Oh, yes,—

BY THE COURT:

Q. You have that available?

A. I might add—

Q. You have that available?

MR. HIRSCH:

Answer the Judge, first.

THE WITNESS:

I might add there would be a strong possibility we would have been able to establish—

BY THE COURT:

Q. Oh, well, why don't you tell me what I want to know? Have you got four inventory here as of May 6th?

A. As of April 30th and July 31st, when—

Q. And are you able to bring those inventories to May 6th and June 23rd?

A. I could if that was necessary. We have established the stock. We didn't operate from May 6th until the physical inventory was taken on July 31st.

Q. All right.

A. The stock should have been correct as to the reports as of that date.

THE COURT:

All right.

MR. SIMONS:

If Your Honor please, I then object to that testimony and ask that it be stricken from the record until such time as Mr. Steeple is able to produce or obtain testimony for such damage as he claims.

MR. HIRSCH:

He is perfectly competent, if Your Honor please, to testify. He has the records before him.

BY MR. HIRSCH:

Q. The inventory of July 31st was taken under your supervision?

A. July 31st, correct.

THE COURT:

Yes, I know, but you haven't covered so far the period from April 30th to May 6th.

MR. HIRSCH:

I will cover that now, then.

THE COURT:

All right, that is what I want to know.

BY MR. HIRSCH:

Q. Now, how did you determine the inventory which you had on May 6th, 1937, and the amount of missing merchandise from that inventory as you found it to be on July 31st, 1937? Will you—

A. We keep perpetual inventory records.

Q. Well, now, then—

A. And then an actual physical inventory was taken on July 31st.

Q. And how did you use that figure, how did you work on back?

A. Well, the figure, the perpetual inventory figure should have shown—or, did show what we should have had on hand.

Q. On what date?

A. On July 31st.

Q. And the actual inventory showed—

A. That showed three hundred and ninety-nine dozen difference—

THE COURT:

That is all right.

BY MR. HIRSCH:

Q. In other words,—

THE COURT:

Well, I understand that, and I guess the jury does.

BY THE COURT:

Q. You took the physical inventory, we will say, on April 30th, and from it you added or subtracted what came in and what went out?

A. No, Judge, there wasn't a physical inventory taken on May 1st. That was from our perpetual records.

Q. You did take a physical inventory—

A. December 31st.

Q. —December 31st, and then after that time you simply added on every day what you—

A. Produced.

Q. —produced, and took off what you shipped out?

A. That is right?

Q. And kept it up every day, and took another physical inventory on the 31st of July?

A. Yes, our regular course of keeping our inventory records.

THE COURT:

That is all right. Now, the only thing you

haven't covered is the question of how much damage was done, how much loss there was on the 6th of May, before the plant came into the exclusive control of the sit-down strikers. I think maybe that counsel will contend that the defendants are responsible for that damage as well. On the other hand, it may be that where it cannot be shown that any member of the union or any defendant participated in the damage on the 6th of May, we might have to have the figure for that, I don't know.

MR. HIRSCH:

We have a figure, I think, for that.

BY MR. HIRSCH:

Q. Haven't we, Mr. Steeple?

A. I didn't get that.

Q. A figure covering the damage done on May 6th, 1937, as distinguished from the subsequent damage have you broken that down in that way?

A. No.

THE COURT:

Well, I don't say that it is necessary.

MR. SIMONS:

If Your Honor please, do I understand that you are passing over, then, the question of that merchandise shortage and merchandise that is missing?

THE COURT:

Yes, why not?

MR. SIMONS:

Well, may I enter my objection for a number

of reasons? First of all, we have no proof at this time, that is, we have no actual evidence of any figures as to the inventory.

THE COURT:

Yes, well—

THE WITNESS:

I have an inventory here.

THE COURT:

He has it available here.

MR. HIRSCH:

We have it.

MR. SIMONS:

Wait a second, do I understand he will supplement his present testimony with the actual figures and the records?

THE WITNESS:

Yes.

THE COURT:

He will if you desire it.

MR. SIMONS:

Well, I do desire it.

THE COURT:

All right.

MR. SIMONS:

This is taken subject to my objection, and the fact that he will produce it at a subsequent time.

THE COURT:

Yes, surely. It is here, and all you have to

do is ask him for it in cross examination. If it is not produced I will strike out the testimony. Of course, it must be here. As I say, the only thing that has not been covered, the only hole that has not been stopped up, is the question of damage done actually on the 6th of May.

MR. SIMONS:

And of course, Your Honor, I will ask that that be segregated,—

THE COURT:

Well,—

MR. SIMONS:

—because there is a very definite question—

THE COURT:

—I am reserving that.

MR. SIMONS:

—as to what happened.

THE COURT:

As I say, I am reserving that.

MR. SIMONS:

Yes.

THE COURT:

And it may be that that will be necessary in order to establish damages with accuracy.

Well, I think we can recess at this point until two o'clock.

(Recess, 12:30 until 2:00 o'clock P. M.)

END OF VOLUME I